

PRESSURE BIOSCIENCES INC
Form 10-Q
November 14, 2018

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended September 30, 2018

or

Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the transition period from _____ to _____

Commission File Number 001-38185

PRESSURE BIOSCIENCES, INC.

(Exact name of registrant as specified in its charter)

Massachusetts **04-2652826**
(State or other jurisdiction of (I.R.S. Employer
incorporation or organization) Identification No.)

14 Norfolk Avenue
South Easton, Massachusetts **02375**
(Address of principal executive offices) (Zip Code)

(508) 230-1828
(Registrant’s telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer <input type="checkbox"/>	Accelerated filer <input type="checkbox"/>	Non-accelerated filer <input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company <input checked="" type="checkbox"/>	Emerging growth company <input type="checkbox"/>
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If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2 of the Exchange Act).

Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of November 7, 2018.

Class	Number of Shares
Common Stock, par value \$.01 per share	1,751,846

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PART I - FINANCIAL INFORMATION**Item 1. Financial Statements****PRESSURE BIOSCIENCES, INC. AND SUBSIDIARY****CONSOLIDATED BALANCE SHEETS****(UNAUDITED)**

	September 30, 2018	December 31, 2017
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$5,919	\$81,033
Accounts receivable	374,329	206,848
Inventories, net of \$139,700 reserve at September 30, 2018 and \$179,600 at December 31, 2017	899,934	857,662
Prepaid expenses and other current assets	254,464	222,158
Total current assets	1,534,646	1,367,701
Intangible assets, net of amortization of \$64,904 and \$0, respectively	685,096	750,000
Investment in available-for-sale equity securities	16,643	19,825
Property and equipment, net	16,885	22,662
TOTAL ASSETS	\$2,253,270	\$2,160,188
LIABILITIES AND STOCKHOLDERS' DEFICIT		
CURRENT LIABILITIES		
Accounts payable	\$605,653	\$589,263
Accrued employee compensation	372,402	368,700
Accrued professional fees and other	942,077	800,620
Other current liabilities	1,041,193	1,536,507
Deferred revenue	161,301	263,106
Revolving note payable	-	3,500,000
Related party convertible debt, net of debt discount of \$0 and \$31,372, respectively	-	259,762
Convertible debt, net of unamortized debt discounts of \$239,872 and \$401,856, respectively	3,619,565	8,028,014
Other debt, net of unamortized discounts of \$6,343 and \$48,194, respectively	663,184	1,379,863
Related party other debt	22,500	-
Total current liabilities	7,427,875	16,725,835
LONG TERM LIABILITIES		
Deferred revenue	44,356	57,149
TOTAL LIABILITIES	7,472,231	16,782,984

COMMITMENTS AND CONTINGENCIES (Note 5)

STOCKHOLDERS' DEFICIT

Series D Convertible Preferred Stock, \$.01 par value; 850 shares authorized; 300 shares issued and outstanding on September 30, 2018 and December 31, 2017, respectively (Liquidation value of \$300,000)	3	3
Series G Convertible Preferred Stock, \$.01 par value; 240,000 shares authorized; 80,570 shares issued and outstanding on September 30, 2018 and December 31, 2017, respectively	806	806
Series H Convertible Preferred Stock, \$.01 par value; 10,000 shares authorized; 10,000 shares issued and outstanding on September 30, 2018 and December 31, 2017, respectively	100	100
Series H2 Convertible Preferred Stock, \$.01 par value; 21 shares authorized; 21 shares issued and outstanding on September 30, 2018 and December 31, 2017, respectively	-	-
Series J Convertible Preferred Stock, \$.01 par value; 6,250 shares authorized; 3,458 shares issued and outstanding on September 30, 2018 and December 31, 2017, respectively	35	35
Series K Convertible Preferred Stock, \$.01 par value; 15,000 shares authorized; 6,880 shares issued and outstanding on September 30, 2018 and December 31, 2017, respectively	68	68
Series AA Convertible Preferred Stock, \$.01 par value; 10,000 shares authorized; 5,655 and 0 shares issued and outstanding on September 30, 2018 and December 31, 2017, respectively	57	-
Common stock, \$.01 par value; 100,000,000 shares authorized; 1,657,136 and 1,342,858 shares issued and outstanding on September 30, 2018 and December 31, 2017, respectively	16,571	13,429
Warrants to acquire common stock	18,290,689	9,878,513
Additional paid-in capital	38,516,869	30,833,549
Accumulated deficit	(62,044,159)	(55,349,299)
Total stockholders' deficit	(5,218,961)	(14,622,796)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	\$2,253,270	\$2,160,188

The accompanying notes are an integral part of these unaudited consolidated financial statements

PRESSURE BIOSCIENCES, INC. AND SUBSIDIARY**CONSOLIDATED STATEMENTS OF OPERATIONS****(UNAUDITED)**

	For the Three Months Ended		For the Nine Months Ended September 30,	
	September 30,		2018	2017
	2018	2017		
Revenue:				
Products, services, other	\$461,017	\$603,726	\$1,664,679	\$1,610,124
Grant revenue	60,749	42,335	106,634	127,666
Total revenue	521,766	646,061	1,771,313	1,737,790
Costs and expenses:				
Cost of products and services	234,320	328,743	829,155	852,039
Research and development	262,054	239,326	910,862	744,565
Selling and marketing	223,286	301,676	722,696	814,796
General and administrative	735,505	901,588	2,270,953	2,655,054
Total operating costs and expenses	1,455,165	1,771,333	4,733,666	5,066,454
Operating loss	(933,399)	(1,125,272)	(2,962,353)	(3,328,664)
Other expense:				
Interest expense	(733,209)	(1,554,379)	(3,015,596)	(4,431,950)
Other expense	(1,283)	-	(15,595)	(7,108)
(Loss) gain on extinguishment of debt	(140,765)	90,862	335,132	90,862
Incentive shares/warrants	-	-	(663,130)	(186,802)
Change in fair value of derivative liabilities	-	245,213	-	(26,014)
Total other (expense) income	(875,257)	(1,218,304)	(3,359,189)	(4,561,012)
Net loss	(1,808,656)	(2,343,576)	(6,321,542)	(7,889,676)
Deemed dividend on down round feature	-	-	(213,012)	-
Deemed dividend on beneficial conversion feature	(1,146,280)	-	(11,678,571)	-
Preferred stock dividends	(277,439)	-	(373,318)	-
Net loss attributable to common stockholders	\$(3,232,375)	\$(2,343,576)	\$(18,586,443)	\$(7,889,676)
Basic and diluted net loss per share attributable to common stockholders	\$(2.01)	\$(2.07)	\$(12.67)	\$(7.28)
Weighted average common stock shares outstanding used in the basic and diluted net loss per share calculation	1,606,575	1,133,791	1,466,424	1,084,370

The accompanying notes are an integral part of these unaudited consolidated financial statements

PRESSURE BIOSCIENCES, INC. AND SUBSIDIARY

CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS

(UNAUDITED)

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
Comprehensive Loss				
Net loss	\$(1,808,656)	\$(2,343,576)	\$(6,321,542)	\$(7,889,676)
Other comprehensive loss				
Unrealized income on marketable securities	-	-	-	6,190
Comprehensive loss	\$(1,808,656)	\$(2,343,576)	\$(6,321,542)	\$(7,883,486)

The accompanying notes are an integral part of these unaudited consolidated financial statements

PRESSURE BIOSCIENCES, INC. AND SUBSIDIARY**CONSOLIDATED STATEMENTS OF CASH FLOWS****(UNAUDITED)**

	For the Nine Months Ended September 30,	
	2018	2017
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$(6,321,542)	\$(7,889,676)
Adjustments to reconcile net loss to net cash used in operating activities:		
Common stock issued for debt extension	33,218	10,000
Depreciation and amortization	70,681	7,027
Accretion of interest and amortization of debt discount	1,405,490	3,548,244
Issuance of incentive shares and common stock warrants	663,130	186,802
Inventory reserve recovery	(39,900)	-
Gain on extinguishment of debt	(335,132)	(90,862)
Stock-based compensation expense	299,584	318,910
Amortization of third party fees paid in common stock and warrants	-	46,558
Shares issued with debt	7,800	-
Change in fair value of derivative liabilities	-	26,014
Impairment loss on investment	3,182	6,069
Changes in operating assets and liabilities:		
Accounts receivable	(167,481)	(266,996)
Inventories	(2,372)	(217,498)
Prepaid expenses and other assets	141,214	111,748
Accounts payable	16,390	445,924
Accrued employee compensation	3,702	49,079
Deferred revenue and other accrued expenses	606,454	618,890
Net cash used in operating activities	(3,615,582)	(3,089,767)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property plant and equipment	-	(16,617)
Net cash used in investing activities	-	(16,617)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Net proceeds from revolving note payable	460,000	2,070,000
Net proceeds from warrant exercises	-	140,215
Net proceeds from Series AA convertible preferred stock	1,255,463	-
Net proceeds from convertible debt	3,848,484	-
Net proceeds from non-convertible debt – third party	1,595,901	2,400,752
Net proceeds from non-convertible debt – related party	116,100	-
Payments on convertible debt	(2,097,750)	(840,541)
Payments on non-convertible debt	(1,579,130)	(783,682)

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Payments on non-convertible debt – related party	(58,600)	-
Net cash provided by financing activities	3,540,468	2,986,744
NET INCREASE (DECREASE) IN CASH	(75,114)	(119,640)
CASH AT BEGINNING OF YEAR	81,033	138,363
CASH AT END OF PERIOD	\$5,919	\$18,723
SUPPLEMENTAL INFORMATION		
Interest paid in cash	\$856,562	\$282,906
Income taxes paid	-	-
NON CASH TRANSACTIONS:		
Common stock issued in lieu of cash for interest	201,432	185,603
Common stock issued for services to be rendered	173,520	-
Common stock issued with debt	222,272	321,127
Discount from warrants issued with convertible debt	162,023	668,544
Discount from one-time interest	169,500	225,000
Unrealized gain from available-for-sale equity securities	-	6,190
Preferred stock dividends	373,318	-
Conversion of debt into preferred stock	12,688,634	-
Conversion of preferred stock into common stock	-	55,200
Contingent beneficial conversion feature on convertible note	253,000	-
Deemed dividend-triggered down round feature	213,012	-
Deemed dividend-beneficial conversion feature	11,678,571	-
Derivative liability released upon warrant exercise	-	49,327
Reclassification of derivative liabilities to equity and cumulative effect of adoption of ASU 2017-11	-	1,689,386

The accompanying notes are an integral part of these unaudited consolidated financial statements

PRESSURE BIOSCIENCES, INC. AND SUBSIDIARY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

SEPTEMBER 30, 2018

(UNAUDITED)

1) Business Overview, Liquidity and Management Plans

Pressure BioSciences, Inc. (“we”, “our”, “the Company”) is focused on solving the challenging problems inherent in biological sample preparation, a crucial laboratory step performed by scientists worldwide working in biological life sciences research. Sample preparation is a term that refers to a wide range of activities that precede most forms of scientific analysis. Sample preparation is often complex, time-consuming, and in our belief, one of the most error-prone steps of scientific research. It is a widely-used laboratory undertaking, the requirements of which drive what we believe is a large and growing worldwide market. We have developed and patented a novel, enabling technology platform that can control the sample preparation process. It is based on harnessing the unique properties of high hydrostatic pressure. This process, called pressure cycling technology, or PCT, uses alternating cycles of hydrostatic pressure between ambient and ultra-high levels (45,000 psi or greater) to safely, conveniently and reproducibly control the actions of molecules in biological samples, such as cells and tissues from human, animal, plant, and microbial sources.

Our pressure cycling technology uses internally developed instrumentation that is capable of cycling pressure between ambient and ultra-high levels - at controlled temperatures and specific time intervals - to rapidly and repeatedly control the interactions of bio-molecules, such as DNA, RNA, proteins, lipids, and small molecules. Our laboratory instrument, the Barocycler®, and our internally developed consumables product line, including PULSE® (Pressure Used to Lyse Samples for Extraction) Tubes, other processing tubes, and application specific kits (which include consumable products and reagents) together make up our PCT Sample Preparation System, or PCT SPS.

In 2015, together with an investment bank, we formed a subsidiary called Pressure BioSciences Europe (“PBI Europe”) in Poland. We have 49% ownership interest with the investment bank retaining 51%. As of now, PBI Europe does not have any operating activities and we cannot reasonably predict when operations will commence. Therefore, we do not have control of the subsidiary and did not consolidate in our financial statements. PBI Europe did not have any operations in the nine months ended September 30, 2018 or in fiscal year 2017.

2) Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern, which contemplates the realization of assets and the liquidation of liabilities in the normal course of business. However, we have experienced negative cash flows from operations with respect to our pressure cycling technology business since our inception. As of September 30, 2018, we do not have adequate working capital resources to satisfy our current liabilities and as a result, there is substantial doubt regarding our ability to continue as a going concern. We have been successful in raising cash through debt and equity offerings in the past and as described in Notes 6 and 7. In addition we raised cash through equity and debt financing after September 30, 2018 as described in Note 8. We have financing efforts in place to continue to raise cash through debt and equity offerings. Although we have successfully completed financings and reduced expenses in the past, we cannot assure you that our plans to address these matters in the future will be successful. These financial statements do not include any adjustments that might result from this uncertainty.

In August 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2014-15, *Presentation of Financial Statements-Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity’s Ability to Continue as a Going Concern*. (“ASU 2015-14”). Under the new standard, management must evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company’s ability to continue as a going concern within one year after the date that the financial statements are issued. This evaluation initially does not take into consideration the potential mitigating effect of management’s plans that have not been fully implemented as of the date the financial statements are issued. When substantial doubt exists under this methodology, management evaluates whether the mitigating effect of its plans sufficiently alleviates substantial doubt about the Company’s ability to continue as a going concern. The mitigating effect of management’s plans, however, is only considered if both (1) it is probable that the plans will be effectively implemented within one year after the date that the financial statements are issued, and (2) it is probable that the plans, when implemented, will mitigate the relevant conditions or events that raise substantial doubt about the entity’s ability to continue as a going concern within one year after the date that the financial statements are issued. This standard was adopted by the Company at January 1, 2017.

3) Interim Financial Reporting

The accompanying unaudited consolidated balance sheet as of December 31, 2017, which was derived from audited financial statements, and the unaudited interim consolidated financial statements of Pressure BioSciences, Inc. have been prepared in accordance with accounting principles generally accepted in the United States of America (“generally accepted accounting principles” or “GAAP”) for interim financial information. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all material adjustments (consisting of only normal recurring adjustments) considered necessary for a fair presentation have been included. Operating results for the three months and nine months ended September 30, 2018 are not necessarily indicative of the results that may be expected for the year ending December 31, 2018. For further information, refer to the audited consolidated financial statements and footnotes thereto included in the Company’s Annual Report on Form 10-K (the “Form 10-K”) for the fiscal year ended December 31, 2017 as filed with the Securities and Exchange Commission on April 2, 2018.

4) Summary of Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements include the accounts of Pressure BioSciences, Inc., and its wholly-owned subsidiary PBI BioSeq, Inc. All intercompany accounts and transactions have been eliminated in consolidation.

Reclassifications

Certain prior year amounts have been reclassified to conform to our current year presentation.

Recent Accounting Standards

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842). The new standard requires the recognition of assets and liabilities arising from lease transactions on the balance sheet and the disclosure of key information about leasing arrangements. Accordingly, a lessee will recognize a lease asset for its right to use the underlying asset and a lease liability for the corresponding lease obligation. Both the asset and liability will initially be measured at the present value of the future minimum lease payments over the lease term. Subsequent measurement, including the presentation of expenses and cash flows, will depend on the classification of the lease as either finance or an operating lease. Initial costs directly attributable to negotiating and arranging the lease will be included in the asset. Lessees will

also be required to provide additional qualitative and quantitative disclosures regarding the amount, timing and uncertainty of cash flows arising from leases. The new standard is effective for fiscal years beginning after December 15, 2018, and interim periods therein. We will adopt ASC 842 effective January 1, 2019. This new guidance is not expected to have a material impact on the Company's consolidated financial statements.

In November 2016, the FASB issued ASU 2016-18, Statement of Cash Flows (Topic 230): Restricted Cash, which requires restricted cash to be presented with cash and cash equivalents on the statement of cash flows and disclosure of how the statement of cash flows reconciles to the balance sheet if restricted cash is shown separately from cash and cash equivalents on the balance sheet. The guidance is effective for interim and annual periods beginning after December 15, 2017, and early adoption is permitted. The Company early adopted the ASU 2016-18 on January 1, 2017.

In January 2017, the FASB issued ASU No. 2017-01, Business Combinations (Topic 805): Clarifying the Definition of a Business, which clarifies the definition of a business to provide additional guidance with evaluating whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. This ASU is effective for annual periods beginning after December 15, 2017, including interim periods within those periods. The Company early adopted the ASU 2016-18 on January 1, 2017 starting with its purchase of BaroFold assets.

In May 2017, the FASB issued ASU 2017-09, *Compensation – Stock Compensation (Topic 718) Scope of Modification Accounting*, which clarifies that an entity should account for the effects of a modification unless the fair value, vesting terms and classification as liability or equity of the modified and original awards do not change on the modification date. This ASU is effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years. The Company adopted this ASU effective on January 1, 2018, on a prospective basis which did not have a material impact on the Company's condensed consolidated financial statements and related disclosures.

Effective January 1, 2018, the Company adopted ASU 2016-01, Recognition and Measurement of Financial Assets and Financial Liabilities. The standard amends various aspects of the recognition, measurement, presentation, and disclosure of financial instruments. The most significant impact to our consolidated financial statements relates to the recognition and measurement of equity investments at fair value with changes recognized in Net income. The amendment also updates certain presentation and disclosure requirements. The adoption of ASU 2016-01 did not have a material impact on the consolidated financial statements. The adoption of ASU 2016-01 will result in increased volatility in net income as changes in the fair value of available-for-sale equity investments and changes in observable prices of equity investments without readily determinable fair values will be recorded in net income.

Effective January 1, 2018, the Company adopted ASC Topic 606, Revenue from Contracts with Customers, using the modified retrospective method. This guidance supersedes nearly all existing revenue recognition guidance under US GAAP. The core principle of the guidance is that an entity should recognize revenue when it transfers promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. The Company updated its accounting policy for the new standard based on a detailed review of its business and contracts. Based on the new guidance, the Company continues to recognize revenue at a point in time for the majority of its contracts with customers, which is generally when products are either shipped or delivered. Therefore, the adoption of ASC 606 did not have a material impact on the consolidated financial statements.

In July 2018, the FASB issued ASU 2018-07, Compensation- Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting as an amendment and update expanding the scope of Topic 718. The amendment specifies that Topic 718 now applies to all share-based payment transactions, even non-employee awards, in which a grantor acquires goods or services to be used or consumed in a grantor's own operations by issuing share-based payment awards. Under the new guidance, awards to nonemployees are measured on the grant date, rather than on the earlier of the performance commitment date or the date at which the nonemployee's performance is complete. Also, the awards would be measured by estimating the fair value of the equity instruments to be issued, rather than the fair value of the goods or services received or the fair value of the equity instruments issued, whichever can be measured more reliably. In addition, entities may use the expected term to measure nonemployee awards or elect to use the contractual term as the expected term, on an award-by-award basis. The new guidance is effective for the Company in annual periods beginning after December 15, 2018, and interim periods within those annual periods, with early adoption permitted. Based on the new guidance, the Company will measure its nonemployee stock awards at grant date not when the stock awards are vested. This new guidance is not expected to have a material impact on the Company's consolidated financial statements.

Revenue Recognition

We recognize revenue in accordance with FASB ASC 606, *ASC 606, Revenue from Contracts with Customers*, and *ASC 340-40, Other Assets and Deferred Costs—Contracts with Customers*. Revenue is measured based on a consideration specified in a contract with a customer, and excludes any sales incentives and amounts collected on behalf of third parties. We enter into sales contracts that may consist of multiple distinct performance obligations

where certain performance obligations of the sales contract are not delivered in one reporting period. We measure and allocate revenue according to ASC 606-10.

We identify a performance obligation as distinct if both the following criteria are true: the customer can benefit from the good or service either on its own or together with other resources that are readily available to the customer and the entity's promise to transfer the good or service to the customer is separately identifiable from other promises in the contract. Determining the standalone selling price ("SSP") and allocation of consideration from a contract to the individual performance obligations, and the appropriate timing of revenue recognition, is the result of significant qualitative and quantitative judgments. Management considers a variety of factors such as historical sales, usage rates, costs, and expected margin, which may vary over time depending upon the unique facts and circumstances related to each performance obligation in making these estimates. While changes in the allocation of the SSP between performance obligations will not affect the amount of total revenue recognized for a particular contract, any material changes could impact the timing of revenue recognition, which would have a material effect on our financial position and result of operations. This is because the contract consideration is allocated to each performance obligation, delivered or undelivered, at the inception of the contract based on the SSP of each distinct performance obligation.

Taxes assessed by a governmental authority that are both imposed on and concurrent with a specific revenue-producing transaction, that are collected by the Company from a customer, are excluded from revenue.

Shipping and handling costs associated with outbound freight after control over a product has transferred to a customer are accounted for as a fulfillment cost and are included in cost of revenues as consistent with treatment in prior periods.

Our current Barocycler® instruments require a basic level of instrumentation expertise to set-up for initial operation. To support a favorable first experience for our customers, upon customer request, and for an additional fee, will send a highly trained technical representative to the customer site to install Barocyclers® that we sell, lease, or rent through our domestic sales force. The installation process includes uncrating and setting up the instrument, followed by introductory user training. Our sales arrangements do not provide our customers with a right of return. Any shipping costs billed to customers are recognized as revenue.

The majority of our instrument and consumable contracts contain pricing that is based on the market price for the product at the time of delivery. Our obligations to deliver product volumes are typically satisfied and revenue is recognized when control of the product transfers to our customers. Concurrent with the transfer of control, we typically receive the right to payment for the shipped product and the customer has significant risks and rewards of ownership of the product. Payment terms require customers to pay shortly after delivery and do not contain significant financing components.

We apply ASC 845, "Accounting for Non-Monetary Transactions", to account for products and services sold through non-cash transactions based on the fair values of the products and services involved, where such values can be

determined. Non-cash exchanges would require revenue to be recognized at recorded cost or carrying value of the assets or services sold if any of the following conditions apply:

a) The fair value of the asset or service involved is not determinable.

The transaction is an exchange of a product or property held for sale in the ordinary course of business for a
b) product or property to be sold in the same line of business to facilitate sales to customers other than the parties to the exchange.

c) The transaction lacks commercial substance.

We currently record revenue for its non-cash transactions at recorded cost or carrying value of the assets or services sold.

In accordance with FASB ASC 840, *Leases*, we account for our lease agreements under the operating method. We record revenue over the life of the lease term and we record depreciation expense on a straight-line basis over the thirty-six-month estimated useful life of the Barocyler® instrument. The depreciation expense associated with assets under lease agreement is included in the “Cost of PCT products and services” line item in our accompanying consolidated statements of operations. Many of our lease and rental agreements allow the lessee to purchase the instrument at any point during the term of the agreement with partial or full credit for payments previously made. We pay all maintenance costs associated with the instrument during the term of the leases.

Revenue from government grants is recorded when expenses are incurred under the grant in accordance with the terms of the grant award.

Deferred revenue represents amounts received from grants and service contracts for which the related revenues have not been recognized because one or more of the revenue recognition criteria have not been met. Revenue from service contracts is recorded ratably over the length of the contract.

Disaggregation of revenue

In the following table, revenue is disaggregated by primary geographical market, major product line, and timing of revenue recognition.

In thousands of US dollars (\$)	Three Months Ended September	Nine Months Ended September 30,
---------------------------------	---------------------------------------	---------------------------------------

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	30,			
Primary geographical markets	2018	2017	2018	2017
North America	408	401	1,123	1,124
Europe	59	3	278	161
Asia	55	242	370	453
	522	646	1,771	1,738

	Three Months Ended September 30,			
	2018	2017	2018	2017
			Nine Months Ended September 30,	
Major products/services lines	2018	2017	2018	2017
Hardware	278	411	1,094	1,154
Grants	61	42	106	127
Consumables	43	85	182	200
Contract research services	80	-	147	-
Sample preparation accessories	22	47	118	121
Technical support/extended service contracts	20	35	70	78
Shipping and handling	10	17	38	38
Other	8	9	16	20
	522	646	1,771	1,738

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Timing of revenue recognition				
Products transferred at a point in time	362	560	1,546	1,546
Products and services transferred over time	160	86	225	192
	522	646	1,771	1,738

Contract balances

In thousands of US dollars (\$)	September 30, 2018	December 31, 2017
Receivables, which are included in 'Accounts Receivable'	374	207
Contract liabilities (deferred revenue)	206	320

Transaction price allocated to the remaining performance obligations

The following table includes estimated revenue expected to be recognized in the future related to performance obligations that are unsatisfied (or partially unsatisfied) at the end of the reporting period.

In thousands of US dollars (\$)	2018	2019	2020	Total
Extended warranty service	7	199	-	206

All consideration from contracts with customers is included in the amounts presented above.

Contract Costs

The Company recognizes the incremental costs of obtaining contracts as an expense when incurred if the amortization period of the assets that the Company otherwise would have recognized is one year or less. These costs are included in selling, general, and administrative expenses. The costs to obtain a contract are recorded immediately in the period when the revenue is recognized either upon shipment or installation. The costs to obtain a service contract are considered immaterial when spread over the life of the contract so the Company records the costs immediately upon billing.

Use of Estimates

To prepare our consolidated financial statements in conformity with accounting principles generally accepted in the United States of America, we are required to make significant estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. In addition, significant estimates were made in projecting future cash flows to quantify deferred tax assets, the costs associated with fulfilling our warranty obligations for the instruments that we sell, and the estimates employed in our calculation of fair value of stock options awarded and warrant derivative liability. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from the estimates and assumptions used.

*Concentrations**Credit Risk*

Our financial instruments that potentially subject us to concentrations of credit risk consist primarily of cash, cash equivalents, and trade receivables. We have cash investment policies which, among other things, limit investments to investment-grade securities. We perform ongoing credit evaluations of our customers, and the risk with respect to trade receivables is further mitigated by the fact that many of our customers are government institutions, large pharmaceutical and biotechnology companies, and academic laboratories.

The following table illustrates the level of concentration as a percentage of total revenues during the three months and nine months ended September 30, 2018 and 2017.

	For the Three Months Ended September 30, 2018		2017	
Top Five Customers	59 %	73 %		
Federal Agencies	12 %	30 %		

	For the Nine Months Ended September 30, 2018		2017	
Top Five Customers	36 %	38 %		
Federal Agencies	10 %	19 %		

The following table illustrates the level of concentration as a percentage of net accounts receivable balance as of September 30, 2018 and December 31, 2017. The Top Five Customers category may include federal agency receivable balances if applicable.

	September 30, 2018		December, 31, 2017	
Top Five Customers	76	%	85	%
Federal Agencies	1	%	1	%

Product Supply

CBM Industries (Taunton, MA) has recently become the manufacturer of the Barocycler® 2320EXT. CBM is ISO 13485:2003 and 9001:2008 Certified. CBM provides us with precision manufacturing services that include management support services to meet our specific application and operational requirements. Among the services provided by CBM to us are:

CNC Machining

Contract Assembly & Kitting

Component and Subassembly Design

Inventory Management

ISO certification

At this time, we believe that outsourcing the manufacturing of our new Barocycler® 2320EXT to CBM is the most cost-effective method for us to obtain and maintain ISO Certified, CE and CSA Marked instruments. CBM's close proximity to our South Easton, MA facility is a significant asset enabling interactions between our Engineering, R&D, and Manufacturing groups and their counterparts at CBM. CBM was instrumental in helping PBI achieve CE Marking on our Barocycler® 2320EXT, as announced on February 2, 2017.

Although we currently manufacture and assemble the Barozyme HT48, Barocycler® HUB440, the SHREDDER SG3, and most of our consumables at our South Easton, MA facility, we plan to take advantage of the established relationship with CBM and transfer manufacturing of the entire Barocycler® product line, future instruments, and other products to CBM.

The Barocycler® NEP3229, launched in 2008, and manufactured by the BIT Group, will be phased out over the next several years and replaced by the new state-of-the-art Barocycler® HUB and Barozyme HT48 product lines.

Investment in Available-For-Sale Equity Securities

As of September 30, 2018, we held 100,250 shares of common stock of Everest Investments Holdings S.A. (“Everest”), a Polish publicly traded company listed on the Warsaw Stock Exchange. We account for this investment in accordance with ASC 320 “*Investments — Debt and Equity Securities*” as securities available for sale. On September 30, 2018, our consolidated balance sheet reflected the fair value of our investment in Everest to be approximately \$17,000, based on the closing price of Everest shares of \$0.17 USD per share on that day. The carrying value of our investment in Everest common stock held will change from period to period based on the closing price of the common stock of Everest as of the balance sheet date.

Computation of Loss per Share

Basic loss per share is computed by dividing loss available to common shareholders by the weighted average number of common shares outstanding. Diluted loss per share is computed by dividing loss available to common shareholders by the weighted average number of common shares outstanding plus additional common shares that would have been outstanding if dilutive potential common shares had been issued. For purposes of this calculation, convertible preferred stock, common stock dividends, and warrants and options to acquire common stock, are all considered common stock equivalents in periods in which they have a dilutive effect and are excluded from this calculation in periods in which these are anti-dilutive to our net loss.

The following table illustrates our computation of loss per share for the three months and nine months ended September 30, 2018 and 2017:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
Numerator:				
Net loss	\$(1,808,656)	\$(2,343,576)	\$(6,321,542)	\$(7,889,676)
Deemed dividend on down round feature	-	-	(213,012)	-
Deemed dividend on beneficial conversion feature	(1,146,280)	-	(11,678,571)	-
Preferred stock dividends	(277,439)	-	(373,318)	-
Net loss applicable to common shareholders	\$(3,232,375)	\$(2,343,576)	\$(18,586,443)	\$(7,889,676)
Denominator for basic and diluted loss per share:				
Weighted average common stock shares outstanding	1,606,575	1,133,791	1,466,424	1,084,370
Loss per common share – basic and diluted	\$(2.01)	\$(2.07)	\$(12.67)	\$(7.28)

The following table presents securities that could potentially dilute basic loss per share in the future. For all periods presented, the potentially dilutive securities were not included in the computation of diluted loss per share because these securities would have been anti-dilutive to our net loss. The Series D Convertible Preferred Stock, Series G Convertible Preferred Stock, Series H Convertible Preferred Stock, Series H2 Convertible Preferred Stock, Series J Convertible Preferred Stock and Series K Convertible Preferred Stock are presented below as if they were converted into common shares according to the conversion terms.

	As of September 30,	
	2018	2017
Stock options	341,790	249,636
Convertible debt	361,391	828,870
Common stock warrants	6,769,607	902,033
Convertible preferred stock:		
Series D Convertible Preferred Stock	25,000	25,000
Series G Convertible Preferred Stock	26,857	26,857
Series H Convertible Preferred Stock	33,334	33,334
Series H2 Convertible Preferred Stock	70,000	70,000
Series J Convertible Preferred Stock	115,267	115,267
Series K Convertible Preferred Stock	229,334	227,200
Series AA Convertible Preferred Stock	5,655,454	-
	13,628,034	2,478,197

Accounting for Stock-Based Compensation Expense

We maintain equity compensation plans under which incentive stock options and non-qualified stock options are granted to employees, independent members of our Board of Directors and outside consultants. We recognize stock-based compensation expense over the requisite service period using the Black-Scholes formula to estimate the fair value of the stock options on the date of grant.

Determining Fair Value of Stock Option Grants

Valuation and Amortization Method - The fair value of each option award is estimated on the date of grant using the Black-Scholes pricing model based on certain assumptions. The estimated fair value of employee stock options is amortized to expense using the straight-line method over the vesting period.

Expected Term - The Company uses the simplified calculation of expected life, as the Company does not currently have sufficient historical exercise data on which to base an estimate of expected term. Using this method, the expected

term is determined using the average of the vesting period and the contractual life of the stock options granted.

Expected Volatility - Expected volatility is based on the Company's historical stock volatility data over the expected term of the award.

Risk-Free Interest Rate - The Company bases the risk-free interest rate used in the Black-Scholes valuation method on the implied yield currently available on U.S. Treasury zero-coupon issues with an equivalent remaining term.

Forfeitures - The Company records stock-based compensation expense only for those awards that are expected to vest. The Company estimated a forfeiture rate of 5% for awards granted based on historical experience and future expectations of options vesting. The Company used this historical rate as our assumption in calculating future stock-based compensation expense.

The Company recognized stock-based compensation expense of \$151,314 and \$139,399 for the three months ended September 30, 2018 and 2017, respectively. The Company recognized stock-based compensation expense of \$299,584 and \$318,910 for the nine months ended September 30, 2018 and 2017, respectively. The following table summarizes the effect of this stock-based compensation expense within each of the line items of our costs and expenses within our Consolidated Statements of Operations:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
Cost of products and services	\$4,698	\$-	\$4,698	\$-
Research and development	28,444	37,345	59,592	76,263
Selling and marketing	11,822	21,778	26,298	46,112
General and administrative	106,350	80,276	208,996	196,535
Total stock-based compensation expense	\$ 151,314	\$ 139,399	\$ 299,584	\$ 318,910

Fair Value of Financial Instruments

Due to their short maturities, the carrying amounts for cash and cash equivalents, accounts receivable, accounts payable, and accrued expenses approximate their fair value. Long-term liabilities are primarily related to convertible debentures and deferred revenue with carrying values that approximate fair value.

The issuances of our convertible promissory notes and common stock purchase warrant are accounted for under the fair value and relative fair value method.

The warrant is first analyzed per its terms as to whether it has derivative features or not. If the warrant is determined to be a derivative, then it is measured at fair value using the Black Scholes Option Model and recorded as a liability on the balance sheet. The warrant is re-measured at its then current fair value at each subsequent reporting date (it is “marked-to-market”).

If the warrant is determined to not have derivative features, it is recorded into equity at its fair value using the Black Scholes option model, however, limited to a relative fair value based upon the percentage of its fair value to the total fair value including the fair value of the convertible note.

The convertible note is recorded at its fair value, limited to a relative fair value based upon the percentage of its fair value to the total fair value including the fair value of the warrant. Further, the convertible promissory note is examined for any intrinsic beneficial conversion feature (“BCF”) of which the convertible price of the note is less than the closing stock price on date of issuance. If the relative fair value method is used to value the convertible promissory note and there is an intrinsic BCF, a further analysis is undertaken of the BCF using an effective conversion price which assumes the conversion price is the relative fair value divided by the number of shares the convertible debt is converted into by its terms. The adjusted BCF value is accounted for as equity.

The warrant and BCF relative fair values are also recorded as a discount to the convertible promissory notes. At present, these equity features of the convertible promissory notes have been recorded at a discount to the convertible notes that is substantially equal to the proceeds received.

Fair Value Measurements

The Company follows the guidance of FASB ASC Topic 820, “*Fair Value Measurements and Disclosures*” (“ASC 820”) as it related to all financial assets and financial liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis.

In determining the fair value of its assets and liabilities, the Company uses various valuation approaches. The Company employs a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company’s assumptions about the inputs that market participants would use in pricing the asset or liability and are developed based on the best information available in the circumstances. The fair value hierarchy is broken down into three levels based on the source of inputs as follows:

Level 1 – Valuations based on unadjusted quoted prices in active markets for identical assets or liabilities that the Company has the ability to access.

Level 2–Valuations based on quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active and models for which all significant inputs are observable, either directly or indirectly.

Level 3 – Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

Financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company has determined that its financial assets are classified within Level 1 and its financial liabilities are currently classified within Level 3 in the fair value hierarchy. The development of the unobservable inputs for Level 3 fair value measurements and fair value calculations are the responsibility of the Company's management.

Adoption of ASU 2017-11

The Company changed its method of accounting for the Debentures, Debenture Warrants and Series D Warrants through the early adoption of ASU 2017-11 during the year ended December 31, 2017 on a modified retrospective basis. Accordingly, the Company reclassified the warrant derivative and conversion option derivative liabilities to additional paid in capital on its January 1, 2017 consolidated balance sheets totaling approximately \$2.6 million, reduced debt discount by approximately \$0.9 million and recorded the cumulative effect of the adoption to the beginning balance of accumulated deficit of approximately \$2.4 million. This resulted to an increase in stock warrants by \$2.6 million and additional paid-in capital by \$1.4 million. The following table provides a reconciliation of the warrant derivative liability, convertible debt, conversion option derivative liability, stock warrant, additional paid-in capital and accumulated deficit on the consolidated balance sheet as of December 31, 2016:

	Convertible debt, current portion	Convertible debt, long term portion	Warrant Derivative Liability	Conversion Option Liability	Warrants to acquire common stock	Additional Paid-in Capital	Accumulated deficit
Balance, January 1, 2017 (Prior to adoption of ASU 2017-11)	\$4,005,702	\$ 529,742	\$1,685,108	\$951,059	\$6,325,102	\$27,544,265	\$(42,264,190)
Reclassified derivative liabilities and cumulative effect of adoption	769,316	154,152	(1,685,108)	(951,059)	2,636,236	1,446,011	(2,369,548)
Balance, January 1, 2017 (After adoption of ASU 2017-11)	\$4,775,018	\$ 683,894	\$-	\$-	\$8,961,338	\$28,990,276	\$(44,633,738)

The following tables set forth the Company's financial assets and liabilities that were accounted for at fair value on a recurring basis as of September 30, 2018:

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	Fair value measurements at September 30, 2018 using:			
	September 30, 2018	Quoted prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
Available-For-Sale Equity Securities	16,643	16,643	-	-
Total Financial Assets	\$ 16,643	\$ 16,643	\$ -	\$ -

The following tables set forth the Company's financial assets and liabilities that were accounted for at fair value on a recurring basis as of December 31, 2017:

	Fair value measurements at December 31, 2017 using:			
	December 31, 2017	Quoted prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
Available-For-Sale Equity Securities	19,825	19,825	-	-
Total Financial Assets	\$ 19,825	\$ 19,825	\$ -	\$ -

5) Commitments and Contingencies

Operating Leases

Our corporate office is currently located at 14 Norfolk Avenue, South Easton, Massachusetts 02375. We are currently paying \$6,950 per month, on a lease extension, signed on December 29, 2017, that expires December 31, 2018, for our corporate office. We expanded our space to include offices, warehouse and a loading dock on the first floor starting May 1, 2017 with a monthly rent increase already reflected in the current payments.

We extended our lease for our space in Medford, MA to December 30, 2020. The lease requires monthly payments of \$6,912.75 subject to annual cost of living increases. The lease shall be automatically extended for additional three years unless either party terminates at least six months prior to the expiration of the current lease term.

Rental costs are expensed as incurred. During the nine months ended September 30, 2018 and 2017 we incurred \$137,074 and \$112,438 in rent expense, respectively for the use of our corporate office and research and development facilities.

Following is a schedule by years of future minimum rental payments required under operating leases with initial or remaining non-cancelable lease terms in excess of one year as of September 30, 2018:

2018	\$41,588
2019	82,953
2020	82,953
2021	-
Thereafter	-
	\$207,494

Government Grants

We received a \$1.02 million NIH SBIR Phase II Grant in November 2014. Under the grant, the NIH has committed to pay the Company to develop a high-throughput, high pressure-based DNA Shearing System for Next Generation Sequencing and other genomic applications. In March 2018, we received an extension on the SBIR Phase II grant to utilize unused funds until November 30, 2018.

6) Convertible Debt and Other Debt**Conversion of Notes**

We issued 5,075.40 shares of our Series AA Convertible Preferred Stock in satisfaction of \$12,688,634 of convertible promissory notes, Revolving Note and short-term loans issued:

	Debt converted to stock
Current liabilities	
Convertible Debentures, face value	\$6,962,634
Revolving Note with interest	4,750,000
May 19, 2017 Promissory Note with interest	750,000
Other Notes with interest	226,000
Total debt converted in the second quarter of 2018	\$12,688,634

Senior Secured Convertible Debentures and Warrants

We entered into Subscription Agreements (the "Subscription Agreement") with various individuals (each, a "Purchaser") between July 23, 2015 and March 31, 2016, pursuant to which the Company sold Senior Secured Convertible Debentures (the "Debentures") and warrants to purchase shares of common stock equal to 50% of the number of shares issuable pursuant to the subscription amount (the "Warrants") for an aggregate purchase price of \$6,329,549 (the "Purchase Price").

The Company issued a principal aggregate amount of \$6,962,634 in Debentures which includes a 10% original issue discount on the Purchase Price. The Debenture does not accrue any additional interest during the first year it is outstanding but accrues interest at a rate equal to 10% per annum for the second year it is outstanding. The Debenture has a maturity date of two years from issuance. The Debenture is convertible any time after its issuance date. The Purchaser has the right to convert the Debenture into shares of the Company's common stock at a fixed conversion price equal to \$8.40 per share, subject to applicable adjustments. In the second year that the Debenture is outstanding, any interest accrued shall be payable quarterly in either cash or common stock, at the Company's discretion.

In connection with the Debentures issued, the Company issued warrants exercisable into a total of 376,759 shares of our common stock. The Warrants issued in this transaction are immediately exercisable at an exercise price of \$12.00 per share, subject to applicable adjustments including full ratchet anti-dilution if we issue any securities at a price lower than the exercise price then in effect. The Warrants have an expiration period of five years from the original

issue date. The Warrants are subject to adjustment for stock splits, stock dividends or recapitalizations and also include anti-dilution price protection for subsequent equity sales below the exercise price.

On May 2, 2018, the Company entered into a Securities Purchase Agreement with an existing shareholder pursuant to which the Company sold an aggregate of 100 shares of Series AA Convertible Preferred Stock for an aggregate Purchase Price of \$250,000. We issued to the shareholder a new warrant to purchase 100,000 shares of common stock with an exercise price of \$3.50 per share.

The Company, pursuant to a price protection provision triggered on May 2, 2018 with the sale of Series AA units, amended the Debentures and Warrants to purchase Common Stock held by the Debenture Holders entered into between July 22, 2015 and March 31, 2016 as first disclosed in the Company's Current Report on Form 8-K filed on July 28, 2015. The fair value of \$207,899 relating to the reduction in exercise price was treated as a deemed dividend and recorded as a charge against additional paid-in capital within equity. The amended Debenture conversion price was exempt from revaluation because a beneficial conversion feature had already been recorded on the Debenture at issuance.

Subject to the terms and conditions of the Warrants, at any time commencing six months from the Final Closing, the Company has the right to call the Warrants for cancellation if the volume weighted average price of its Common Stock on the OTCQB (or other primary trading market or exchange on which the Common Stock is then traded) equals or exceeds three times the per share exercise price of the Warrants for 15 out of 20 consecutive trading days.

In connection with the Subscription Agreement and Debenture, the Company entered into Security Agreements with the Purchasers whereby the Company agreed to grant to Purchasers an unconditional and continuing, first priority security interest in all of the assets and property of the Company to secure the prompt payment, performance and discharge in full of all of Company's obligations under the Debentures, Warrants and the other Transaction Documents. On May 14 and June 11, 2018, the Company signed letter agreements with the Debenture holders as explained below that discharged all of the Company's obligations within the Debenture Agreement.

Conversion of Debentures

On May 14, 2018, we entered into letter agreements (the "Letter Agreements") with 22 investors (each a "Debenture Holder" and together the "Debenture Holders") holding convertible debentures (collectively the "Debentures") and warrants to purchase common stock (the "Debenture Warrants") whereby the Debenture Holders agreed to convert a total of \$6,220,500 in principal and original issue discount due them under the Debentures into 2,448.20 shares of Series AA Convertible Preferred Stock with a conversion price of \$2.50 per share. The Debenture Holders were also: (a) issued amended Debenture Warrants such that the exercise price will be \$3.50 per share; and (b) issued a new warrant with an exercise price of \$3.50 per share to purchase 2,448,200 shares of common stock (the number of shares of common stock issuable upon conversion of the Series AA Convertible Preferred Stock shares received as a result of the Debenture conversions). The Debenture Holders also agreed to waive any and all defaults or events of default by the Company with respect to any failure by the Company to comply with any covenants contained in the Debentures. The fair value of \$29,865 relating to the adjustment in exercise price was treated as a loan modification and recorded as a gain toward the extinguishment of debt.

On June 11, 2018, the Company entered into additional Letter Agreements with 15 Debenture Holders whereby the Debenture Holders agreed to convert a total of \$742,134 in principal and original issue discount due them under the Debentures into 296.80 shares of Series AA Convertible Preferred Stock with a conversion price of \$2.50 per share.

The Debenture Holders were also: (a) issued amended Debenture Warrants such that the exercise price will be \$3.50 per share; and (b) issued a new warrant with an exercise price of \$3.50 per share to purchase 296,800 shares of common stock (the number of shares of common stock issuable upon conversion of the Series AA Convertible Preferred Stock shares received as a result of the Debenture conversions). The Debenture Holders also agreed to waive any and all defaults or events of default by the Company with respect to any failure by the Company to comply with any covenants contained in the Debentures. The fair value of \$3,155 relating to the adjustment in exercise price was treated as a loan modification and recorded as a gain toward the extinguishment of debt.

In connection with the above Debenture conversions and cancellation of the debt term, the Company recorded the full amount of the remaining unamortized Debenture discounts of \$157,908 as interest expense by June 11, 2018. The Company recorded \$287,676 of the Debenture discounts during 2018 through the cancellation date of June 11, 2018.

On various dates for the nine months ended September 30, 2018, the Company issued 56,007 shares of common stock based on the 10-day VWAP prior to quarter end to holders of the Debentures in payment of the quarterly interest accrued from the Debentures first anniversary date through June 11, 2018 for an aggregate amount of \$211,047. We recognized a \$9,615 gain on extinguishment of debt for the nine months ended September 30, 2018 by calculating the difference of the shares valued on the issuance date and the amount of accrued interest through June 11, 2018.

Other convertible notes

The Company, pursuant to a price protection provision triggered on May 2, 2018 with the sale of Series AA units, amended the conversion price of a March 12, 2018 loan to \$2.50 per share. The fair value of \$253,000, limited to the face value of the loan, relating to the reset in the conversion price was recorded as a debt discount and amortized as interest expense over the remaining loan term.

On various dates during the nine months ended September 30, 2018, the Company issued convertible notes for net proceeds of \$3,848,484 which contained varied terms and conditions as follows: a) maturity dates ranging from 3 to 12 months; b) interest rates that accrue per annum ranging from 4% to 15%; c) convertible to the Company's common stock at issuance at a fixed rate of \$7.50 or convertible at variable conversion rates either after 6 months after issuance or in the event of a default. Certain of these notes were issued with shares of common stock or warrants to purchase common stock that were fair valued at issuance dates. The aggregate relative fair value of \$384,295 of the shares of common stock or warrants to purchase common stock issued with the notes was recorded as a debt discount and amortized over the term of the notes. We then computed the effective conversion price of the notes, noting that no beneficial conversion feature exists. We also evaluated the convertible notes for derivative liability treatment and determined that the notes did not qualify for derivative accounting treatment as of September 30, 2018.

The specific terms of the convertible notes and outstanding balances as of September 30, 2018 are listed in the tables below.

Convertible Notes

Inception Date	Term	Loan Amount	Outstanding Balance with OID	Original Issue Discount	Interest Rate	Conversion Price (Convertible at Inception Date)	Deferred Finance Fees	Discount related to fair value of conversion feature and warrants/shares
July 22, 2015	30 months	1 \$2,398,000	\$-	4 \$218,000 ²	10 % ³	\$ 8.40	\$388,532	\$ 2,163,074
September 25, 2015	30 months	1 1,210,000	-	4 110,000 ²	10 % ³	\$ 8.40	185,956	1,022,052
October 2, 2015	30 months	1 165,000	-	4 15,000 ²	10 % ³	\$ 8.40	26,345	140,832
October 6, 2015	30 months	1 33,000	-	4 3,000 ²	10 % ³	\$ 8.40	5,168	26,721
October 14, 2015	30 months	1 55,000	-	4 5,000 ²	10 % ³	\$ 8.40	8,954	49,377
November 2, 2015	30 months	1 275,000	-	4 25,000 ²	10 % ³	\$ 8.40	43,079	222,723
November 10, 2015	30 months	1 55,000	-	4 5,000 ²	10 % ³	\$ 8.40	8,790	46,984
November 12, 2015	30 months	1 236,500	-	4 21,500 ²	10 % ³	\$ 8.40	38,518	212,399
November 20, 2015	30 months	1 220,000	-	4 20,000 ²	10 % ³	\$ 8.40	37,185	200,000
December 4, 2015	30 months	1 187,000	-	4 17,000 ²	10 % ³	\$ 8.40	37,352	170,000
December 11, 2015	30 months	1 396,000	-	4 36,000 ²	10 % ³	\$ 8.40	75,449	360,000
December 18, 2015	30 months	1 60,500	-	4 5,500 ²	10 % ³	\$ 8.40	11,714	55,000
December 31, 2015	30 months	1 110,000	-	4 10,000 ²	10 % ³	\$ 8.40	20,634	100,000
January 11, 2016	30 months	1 110,000	-	4 10,000 ²	10 % ³	\$ 8.40	24,966	80,034
January 20, 2016	30 months	1 55,000	-	4 5,000 ²	10 % ³	\$ 8.40	9,812	40,188
January 29, 2016	30 months	1 330,000	-	4 30,000 ²	10 % ³	\$ 8.40	60,887	239,113

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February 26, 2016	30 months	1	220,000	-	4	20,000	2	10	% ³	\$ 8.40	43,952	156,048
March 10, 2016	30 months	1	137,500	-	4	12,500	2	10	% ³	\$ 8.40	18,260	106,740
March 18, 2016	30 months	1	396,000	-	4	36,000	2	10	% ³	\$ 8.40	94,992	265,008
March 24, 2016	30 months	1	117,334	-	4	10,667	2	10	% ³	\$ 8.40	15,427	91,240
March 31, 2016	30 months	1	195,670	-	4	17,788	2	10	% ³	\$ 8.40	2,436	175,446
October 20, 2017	12 months		150,000	-		-		5	%	\$ 7.50	7,500	-
October 25, 2017	6 months		103,000	-		-		12	%	-	3,000	-
October 27, 2017	12 months		170,000	-		-		5	%	-	4,250	10,000
November 13, 2017	9 months		380,000	-		15,200		8	%	\$ 7.50	15,200	46,274
November 22, 2017	12 months		100,000	-		10,000		5	%	-	2,000	-
November 28, 2017	10 months		103,000	-		3,000		12	%	-	-	-
November 29, 2017	6 months		150,000	-		-		15	%	\$ 7.50	-	15,200
November 30, 2017	3 months		50,000	-		-		8	%	\$ 7.50	-	-
December 5, 2017	3 months		52,500	-		-		10	%	\$ 7.50	2,500	-
December 6, 2017	4 months		100,000	-		-		10	%	\$ 7.50	-	-
December 11, 2017	6 months		130,000	-		1,500		5	%	-	6,500	6,460
December 19, 2017	6 months		110,000	-		1,500		5	%	-	5,500	5,775
December 28, 2017	6 months		55,000	-		-		15	%	\$ 7.50	5,000	-
December 29, 2017	12 months		105,000	-		-		5	%	-	5,000	-
January 3, 2018	12 months		95,000	-		4,750		5	%	-	2,000	-
January 16, 2018	12 months		131,250	-		-				-	6,250	-
January 19, 2018	6 months		150,000	-		-		10	%	\$ 7.50	6,000	12,267
February 9, 2018	6 months		100,000	-		-		15	%	\$ 7.50	23,500	-
February 15, 2018	6 months		100,000	-		-		15	%	\$ 7.50	9,000	10,474
March 12, 2018	6 months		85,000	-		1,150		5	%	-	4,250	5,183
	6 months		253,000	-		53,000		0	%	-		28,722

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March 12, 2018								
April 11, 2018	6 months	100,000	100,000	4,000	15 %	\$ 7.50	20,000	7,218
April 23, 2018	6 months	103,000	103,000	-	12 %	-	3,000	-
April 24, 2018	9 months	77,000	77,000	-	12 %	\$ 7.50	2,000	-
April 25, 2018	12 months	105,000	105,000	-	4 %	\$ 7.50	5,000	4,590
April 25, 2018	12 months	105,000	105,000	-	4 %	\$ 7.50	5,000	4,590
April 25, 2018	12 months	130,000	130,000	-	6 %	\$ 7.50	6,500	-
April 26, 2018	12 months	65,000	65,000	6,500	5 %	-	2,000	-
May 9, 2018	12 months	250,000	250,000	-	10 %	\$ 7.50	12,500	26,466
May 11, 2018	6 months	161,250	161,250	11,250	15 %	\$ 7.50	10,000	-
May 14, 2018	9 months	50,000	50,000	2,500	15 %	\$ 7.50	2,500	3,704
May 17, 2018	12 months	380,000	380,000	15,200	8 %	\$ 7.50	15,200	43,607
May 23, 2018	9 months	103,000	103,000	-	12 %	-	3,000	-
May 24, 2018	9 months	52,500	52,500	2,500	4 %	-	-	2,075
May 25, 2018	12 months	78,750	78,750	-	4 %	\$ 7.50	3,750	3,112
May 30, 2018	2 months	150,000	-	-	8 %	\$ 7.50	-	6,870
June 4, 2018	12 months	75,000	75,000	7,500	5 %	-	2,000	3,869
June 8, 2018	6 months	50,000	50,000	2,500	15 %	\$ 7.50	2,500	3,271
June 12, 2018	6 months	100,000	-	-	5 %	\$ 7.50	5,000	-
June 14, 2018	9 months	280,000	280,000	25,000	10 %	-	5,000	17,573
June 16, 2018	9 months	130,000	130,000	-	5 %	-	-	-
June 16, 2018	6 months	110,000	110,000	-	5 %	-	-	-
June 26, 2018	3 months	150,000	150,000	-	15 %	\$ 7.50	-	20,242
June 28, 2018	6 months	50,000	50,000	-	15 %	\$ 7.50	-	10,518
July 2, 2018	12 months	125,000	125,000	-	4 %	-	6,250	5,588
July 10, 2018	12 months	95,000	95,000	6,750	5 %	-	-	-
July 13, 2018	9 months	103,000	103,000	-	12 %	-	3,000	-
July 17, 2018	3 months	100,000	100,000	15,000	15 %	\$ 7.50	-	16,944
July 19, 2018	12 months	184,685	184,685	34,685	10 %	\$ 7.50	-	-
July 30, 2018	12 months	80,000	80,000	-	6 %	\$ 7.50	4,000	-
July 31, 2018	3 months	150,000	150,000	-	12 %	\$ 7.50	-	6,578
August 8, 2018	6 months	100,000	100,000	-	15 %	\$ 7.50	-	-
August 15, 2018	4 months	100,000	100,000	-	15 %	\$ 7.50	-	-
August 28, 2018	12 months	131,250	131,250	-	4 %	-	6,250	4,443
September 7, 2018	6 months	85,000	85,000	-	5 %	-	-	4,364

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\$13,744,689 \$3,859,435 \$856,440 \$1,390,308 \$6,258,956

1. The loan term was extended by 180 days and further extended on January 15, 2018 by 60 days to repay in common stock. The Debenture holders signed letter agreements on May 14, 2018 and June 11, 2018 to waive default penalties relating to the maturity date.
2. The original issue discount is reflected in the first year.
3. The annual interest started accruing in the second year.
4. The Debentures were converted into Series AA Convertible Preferred Stock.

For the nine months ended September 30, 2018, the Company recognized amortization expense related to the convertible debt discounts indicated above of \$1,327,983. The unamortized debt discounts as of September 30, 2018 related to the convertible debentures and other convertible notes amounted to \$239,872.

Revolving Note Payable and May 19, 2017 Promissory Note

On October 28, 2016, an accredited investor (the “Investor”) purchased from us a promissory note in the aggregate principal amount of up to \$2,000,000 (the “Revolving Note”) due and payable on the earlier of October 28, 2017 (the “Maturity Date”) or on the seventh business day after the closing of a Qualified Offering (as defined in the Revolving Note). Although the Revolving Note is dated October 26, 2016, the transaction did not close until October 28, 2016, when we received its initial \$250,000 advance pursuant to the Revolving Note. As a result, on the same day and pursuant to the Revolving Note, we issued to the Investor a Common Stock Purchase Warrant (the “Line of Credit Warrants”) to purchase 20,834 shares of our common stock at an exercise price per share equal to \$12.00 per share. The Investor is obligated to provide us with advances of \$250,000 under the Revolving Note, but the Investor shall not be required to advance more than \$250,000 in any individual fifteen (15) day period and no more than \$500,000 in the thirty (30) day period immediately following the date of the initial advance. We received \$3,500,000 pursuant to the Revolving Note as amended of which \$2,070,000 net proceeds was received in 2017 and we issued to the Investor Line of Credit Warrants to purchase 291,667 shares of our Common Stock at an exercise price per share equal to \$12.00 per share. The terms of the Line of Credit Warrants are identical except for the exercise date, issue date, and termination date which are based on the advance date.

The Revolving Note was amended on May 2, 2017 to increase the aggregate principal amount to \$3,000,000, to issue 16,667 shares of our Common Stock to the Investor, to decrease the exercise price per share of the warrants to the lower of (i) \$12.00 or (ii) the per share purchase price of the shares of our Common Stock sold in the Qualified Offering, and to change the references in the Revolving Note from “the six (6) month anniversary of October 28, 2016” to “July 25, 2017.” The fair value of the 16,667 shares issued of \$149,018 was accounted for as a note discount and are amortized to interest expense over the life of the loan. We evaluated the accounting impact of the Revolving Note amendment and deemed that the amendment did not have a material impact on our consolidated financial statements.

The Revolving Note was amended on August 18, 2017 to increase the aggregate principal amount to \$3,500,000 with all other terms unchanged. The Revolving Note, previously amended, was further amended on January 30, 2018 to increase the aggregate principal amount to \$4,000,000 with all other terms unchanged.

In the event that a Qualified Offering had occurred after July 25, 2017, but prior to the Maturity Date, within seven (7) Business Days of the closing of the Qualified Offering, the Company was to pay a cash fee equal to five percent (5%) of the total outstanding amount owed by the Company to the Holder as of the closing date of the Qualified Offering or, at the option of the Company, issue to the Holder a number of restricted shares of the Company’s common stock equal to (x) five percent (5%) of the total outstanding amount owed by the Company to the Holder as of the closing date of the Qualified Offering divided by (y) the purchase price provided by the documents governing the Qualified Offering. A Qualified Offering means the completion of a public offering of the Company’s securities pursuant to which the Company receives aggregate gross proceeds of at least Seven Million United States Dollars (US\$7,000,000) in consideration of the purchase of its securities and resulting in, pursuant to the effectiveness of the registration statement for such offering, the Company’s common stock being traded on the NASDAQ Capital Market, NASDAQ

Global Select Market or the New York Stock Exchange. A Qualified Offering did not occur on or prior to the Maturity Date.

Interest on the principal balance of the Revolving Note shall be paid in full on the Maturity Date, unless otherwise paid prior to the Maturity Date. Interest shall be assessed as follows: (i) a one-time interest of 10% on all principal amounts advanced prior to April 28, 2017; (ii) the foregoing and 4% on any amount remaining outstanding if the principal amount is repaid between April 28, 2017 and July 28, 2017; or (iii) both of the foregoing and 4% on any amount remaining outstanding if the principal amount is repaid between July 28, 2017 and October 28, 2017.

Broker fees amounting to \$336,500, the one-time interest of \$400,000 and the relative fair value of the 333,334 warrants issued to the Investor amounting to \$1,266,691 were recorded as debt discounts and amortized over the term of the revolving note. The unamortized debt discounts related to the Revolving Note were fully amortized as of December 31, 2017. The finance costs from advances after December 31, 2017 were charged to interest expense directly because the maturity date had passed.

On May 19, 2017, we received a 45-day non-convertible loan of \$630,000 from the Investor. The loan provided guaranteed interest of \$63,000 and had an origination fee of \$32,000. We paid a broker \$31,500 in connection with this loan. The unamortized debt discount as of September 30, 2018 was zero.

Conversion of October 26, 2016 Revolving Note and May 19, 2017 Promissory Note

On June 11, 2018, the Company entered into a Letter Agreement with the Investor to convert a total of \$5,500,000 in principal and interest due to the Investor pursuant to the Revolving Note and the May 19, 2017 promissory note into 2,200 shares of Series AA Convertible Preferred Stock with a conversion price of \$2.50 per share. The Company also amended the Line of Credit Warrants held by the Investor. The Company lowered the Line of Credit Warrants' exercise price from \$12.00 per share to \$3.50 per share. The fair value of \$82,904 relating to the reduction in exercise price was treated as a loan modification and recorded as a charge against the extinguishment of debt.

The Company also issued a new warrant to the Investor with an exercise price of \$3.50 per share to purchase 2,200,000 shares of common stock (the number of shares of common stock issuable upon conversion of the Series AA Convertible Preferred Stock shares received as a result of the conversion of a total of \$5,500,000). In connection with the Letter Agreement, the Investor also waived \$520,680 of interest and fees owed as of September 30, 2018. We recognized \$520,680 as a gain on extinguishment of debt.

Convertible Loan modifications and extinguishments

We refinanced certain convertible loans during the three months ended September 30, 2018 at substantially the same terms for extensions of six months. We amortized any remaining unamortized debt discount as of the modification date over the remaining, extended term of the new loans. We applied ASC 470 of modification accounting to the debt instruments which were modified during the quarter or those settled with new notes issued concurrently for the same amounts but different maturity dates. The terms such as the interest rate, prepayment penalties, and default rates will be the same over the new extensions. According to ASC 470, an exchange of debt instruments between or a modification of a debt instrument by a debtor and a creditor in a nontroubled debt situation is deemed to have been accomplished with debt instruments that are substantially different if the present value of the cash flows under the terms of the new debt instrument is at least 10 percent different from the present value of the remaining cash flows under the terms of the original instrument. If the terms of a debt instrument are changed or modified and the cash flow effect on a present value basis is less than 10 percent, the debt instruments are not considered to be substantially different and will be accounted for as modifications.

The cash flows of new debt exceeded 10% of the remaining cash flows of the original debt on five loans. We recorded losses on debt extinguishment of \$124,879 on these five loans by calculating the difference of the fair value of the new debt and the carrying value of the old debt. The loss was primarily from the fair value of common stock issued in connection with these refinancings. The fees paid to the lenders which formed part of the \$124,879 loss on debt extinguishment included the aggregate fair value of \$68,334 for the shares issued with the new debt, the writedown of \$5,883 for unamortized discounts remaining on the original debt and cash fees of \$50,662.

Origination Date	Amended Start Date	New Maturity Date	Loan Amount	New Loan Amount	Total Unamortized Discount as of June 30, 2018	Amortization from July 1, 2018 to Modification Date	Unamortized discount
12/11/2017	6/15/2018	12/11/2018*	\$ 130,000	\$ 130,000	\$ -	\$ -	\$ -
12/19/2017	6/15/2018	12/19/2018*	110,000	110,000	-	-	-
1/3/2018	7/11/2018	7/10/2019	95,000	95,000	3,458	(69)	3,389
1/17/2018	8/29/2018	8/27/2019	131,250	131,250	3,442	(352)	3,090
1/19/2018	7/19/2018	8/22/2019 *	150,000	184,685	1,288	(42)	1,246
2/9/2018	8/8/2018	2/8/2019 *	100,000	100,000	5,193	(556)	4,637
2/15/2018	8/15/2018	12/15/2018*	100,000	100,000	2,662	(2,662)	-
3/12/2018	9/7/2018	3/12/2019	85,000	85,000	2,172	(411)	1,761
5/30/2018	7/31/2018	10/31/2018	150,000	150,000	9,280	(1,868)	7,412
3/30/2018	4/30/2018	9/30/2018	170,000	170,000	-	-	-
			\$ 1,221,250	\$ 1,255,935	\$ 27,495	\$ (5,960)	\$ 21,535

* The original loans were recorded as extinguished, the unamortized debt discounts on the old debt were written off on extinguishment date, and a loss was recorded for each extinguishment. The July 19, 2018 Note includes an original issue discount of \$34,685 added to the new loan.

The following table provides a summary of the changes in convertible debt and revolving note payable, net of unamortized discounts, during 2018:

	2018
Balance at January 1,	\$11,787,776
Issuance of convertible debt, face value	4,664,000
Deferred financing cost	(315,516)
Debt discount related to one-time interest charge	(147,000)
Contingent beneficial conversion feature on convertible note	(253,000)
Debt discount from warrants issued with debt	(162,023)
Debt discount from shares issued with the notes	(222,272)
Conversion of debt into equity	(10,962,634)

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Payments	(2,097,750)
Accretion of interest and amortization of debt discount to interest expense through September 30,	1,327,984
Balance at September 30,	3,619,565
Less: current portion	3,619,565
Convertible debt, long-term portion	\$-

Other Notes

On March 21, 2017, we received an eight-month, non-convertible loan of \$170,000 from an accredited investor. The loan earns an annual interest rate of 10% and includes a 10% original issue discount. We also agreed to issue the investor 5,667 shares of restricted common stock. We recorded the fair value of the shares amounting to \$35,079 as a debt discount that will be amortized to interest expense during the term of the loan. The loan still remains outstanding as of September 30, 2018 with a balance of \$170,000. The lender extended the term to December 31, 2017 and further to March 31, 2018 in exchange for a total of 9,500 shares of common stock with a fair value of \$28,490 recorded as interest expense. The lender further extended the term to April 30, 2018 then to September 30, 2018 in exchange for an aggregate of 7,200 shares of company stock. We fully amortized \$52,079 of the original debt discount in the year ended December 31, 2017. We recorded a loss of \$20,400 relating to the fair value of common stock issued for the September 30 extension.

On August 1, 2017, we signed a non-convertible installment loan with a lender. Under the agreement we received a loan of \$75,000 with a weekly repayment of \$3,500 until payment in full. The loan includes \$18,750 representing an original issue discount, interest and fees resulting in a total payable of \$93,750. The loan was paid off entirely as of September 30, 2018.

On September 12, 2017, we received a 9-month non-convertible loan of \$225,000 from a privately-held investment firm. The loan earns an annual interest rate of 10%. The Company paid total fees of \$25,000 including original issue discount and other costs related to this loan. We agreed to issue 3,333 shares at closing. We recorded the fair value of the shares as a debt discount that will be amortized to interest expense during the term of the loan. We amortized the entire debt discount of \$38,000 as of September 30, 2018. In the event of default and at the option of the holder, the loan is convertible into common stock at a 35% discount to the average of the two lowest daily volume weighted average closing stock price for the 20 trading days prior to conversion. The loan was paid off entirely as of September 30, 2018.

In March 2018, we received non-convertible loans totaling \$150,000 from private investors. The loans include one-year term and 10% guaranteed interest. We converted these loans into Series AA Units. See below.

In April 2018, we received a non-convertible loan for \$10,000 from a private investor. The loan includes a one-year term and 10% guaranteed interest. We converted this loan into Series AA Units. See below.

On July 16, 2018 we signed a Merchant Agreement with a lender. Under the agreement we received \$180,000, of which \$103,450 was used to pay off the outstanding balance on a previous loan dated April 11, 2018 from this lender,

in exchange for rights to all customer receipts until the lender is paid \$246,600, which is collected at the rate of \$1,790.00 per business day. The \$66,600 imputed interest will be recorded as interest expense when paid each day. Fees of \$3,600 were deducted from the initial advance. The payments were secured by second position rights to all customer receipts until the loan has been paid in full. We accounted for the Merchant Agreement as a secured loan under ASC 860 because while we provided rights to current and future receipts, we still had control over the receipts.

On August 8, 2018, we received a non-convertible loan of \$50,000 from a private investor. The loan does not charge interest and was repaid entirely on October 3, 2018.

In September 2018, we received a non-convertible loan of \$67,000 from a private investor. The loan does not charge interest and was repaid entirely in October 2018.

On September 14, 2018, we received a short-term non-convertible loan of \$350,000 from an accredited investor. The loan was repaid entirely on September 18, 2018. We paid \$20,000 in interest on this loan which includes a \$15,000 original issue discount.

Conversion of Non-Convertible Notes

On June 11, 2018, the Company entered into Letter Agreements with certain private investors to convert a total of \$176,000 in principal and interest due to the private investors pursuant to certain loan documents into 70.4 Series AA Units representing 70.4 shares of Series AA Convertible Preferred Stock with a conversion price of \$2.50 per share and warrants to purchase 70,400 shares of common stock.

Merchant Agreements

We have signed various Merchant Agreements which entitle the lenders to our customer receipts. We accounted for the Merchant Agreements as loans under ASC 860 because while we provided rights to current and future receipts, we still had control over the receipts. The following table shows our Merchant Agreements as of September 30, 2018.

Inception Date	Purchase Price	Purchased Amount	Outstanding Balance	Daily Payment	Interest Rate	Deferred Finance Fees
September 29, 2017	75,000	102,000	\$ -	1,200.00	15 %	1,500
October 25, 2017	110,000	153,890	-	1,539.00	15 %	8,800
December 7, 2017	160,000	212,800	-	1,251.76	25 %	5,799
December 12, 2017	160,000	212,800	-	1,251.76	15 %	5,258
February 27, 2018	110,000	147,400	-	921.25	25 %	1,650
April 11, 2018	140,000	187,600	-	1,275.00	13 %	2,800
May 11, 2018	180,000	243,000	82,468	1,518.75	25 %	2,599
May 15, 2018	180,000	244,800	86,858	1,530.00	15 %	3,600
June 29, 2018	140,000	190,400	88,657	1,269.33	25 %	2,100
July 16, 2018	180,000	246,600	124,544	1,790.00	13 %	3,600
	\$1,435,000	\$1,941,290	\$ 382,527			\$37,706

We amortized \$94,050 and \$225,508 of debt discounts during the nine months ended September 30, 2018 and 2017, respectively for all non-convertible notes. The total unamortized discount for all non-convertible notes as of September 30, 2018 was \$6,343.

Related Party Notes

On March 14, 2018, we received a one-year, non-convertible loan of \$50,000 from a related party (a member of the Company's Board of Directors). This loan is included in net proceeds from non-convertible debt in the Statement of Cash Flows. The amount of \$50,000 was converted on June 11, 2018 into 20 shares of Series AA Convertible Preferred Stock and 20,000 warrants to purchase common stock. The \$7,500 guaranteed interest on the loan was recorded as a debt discount and amortized over the term of the debt. The interest is outstanding as of September 30, 2018.

On May 31, 2018, we received two short-term loans of \$46,500 and \$5,600 from two members of the Company's Board of Directors, respectively. We repaid both loans in full during June 2018 and paid interest of \$6,975.

On June 11, 2018, the Company entered into a Letter Agreement with one non-employee member of the Board, to convert \$50,000 in principal due to the board member pursuant to a certain loan document into 20 Series AA Units representing 20 shares of Series AA Convertible Preferred Stock with a conversion price of \$2.50 per share and warrants to purchase 20,000 shares of common stock.

In June 2018, we received a non-convertible loan of \$15,000 from a private investor. The loan includes a one-year term and 10% guaranteed interest.

On August 6, 2018 and on September 28, 2018, we received two short-term loans of \$6,500 and \$7,500 from an employee and an officer of the Company, respectively. We repaid both loans in full in August and October 2018, respectively. There was no interest charged on these loans.

7) Stockholders' Deficit

Preferred Stock

We are authorized to issue 1,000,000 shares of preferred stock with a par value of \$0.01. Of the 1,000,000 shares of preferred stock:

- 1) 20,000 shares have been designated as Series A Junior Participating Preferred Stock (“*Junior A*”)
- 2) 313,960 shares have been designated as Series A Convertible Preferred Stock (“*Series A*”)
- 3) 279,256 shares have been designated as Series B Convertible Preferred Stock (“*Series B*”)
- 4) 88,098 shares have been designated as Series C Convertible Preferred Stock (“*Series C*”)
- 5) 850 shares have been designated as Series D Convertible Preferred Stock (“*Series D*”)
- 6) 500 shares have been designated as Series E Convertible Preferred Stock (“*Series E*”)
- 7) 240,000 shares have been designated as Series G Convertible Preferred Stock (“*Series G*”)
- 8) 10,000 shares have been designated as Series H Convertible Preferred Stock (“*Series H*”)
- 9) 21 shares have been designated as Series H2 Convertible Preferred Stock (“*Series H2*”)
- 10) 6,250 shares have been designated as Series J Convertible Preferred Stock (“*Series J*”)

11) 15,000 shares have been designated as Series K Convertible Preferred Stock (“*Series K*”)

12) 10,000 shares have been designated as Series AA Convertible Preferred Stock (“*Series AA*”)

As of September 30, 2018, there were no shares of Junior A, and Series A, B, C, and E issued and outstanding. See our Annual Report on Form 10-K for the year ended December 31, 2017 for the pertinent disclosures of preferred stock.

Series AA Convertible Preferred Stock and Warrants

On May 2, 2018, the Company entered into a Securities Purchase Agreement with an existing shareholder pursuant to which the Company sold an aggregate of 100 shares of Series AA Convertible Preferred Stock, each preferred share convertible into 1,000 shares of the Company's common stock, par value \$0.01 per share, for an aggregate Purchase Price of \$250,000. Each share of Series AA Convertible Preferred Stock will receive a cumulative dividend at the annual rate of eight percent (8%) payable quarterly commencing on September 30, 2018 on those shares of Series AA Convertible Preferred Stock purchased from the Company.

We issued to the shareholder a new warrant to purchase 100,000 shares of common stock with an exercise price of \$3.50 per share. The Warrant will expire on the fifth-year anniversary after issuance. The exercise price is also subject to adjustment in the event that we issue any shares of common stock or common stock equivalents at a per share price that is lower than the exercise price for the Series AA Warrants then in effect. Upon any such issuance, subject to certain exceptions, the exercise price will be reduced to the per share price at which such shares of common stock or common stock equivalents are issued.

On May 14, 2018, we entered into Letter Agreements with 22 Debenture Holders holding Debentures and Debenture Warrants whereby the Debenture Holders agreed to convert a total of \$6,220,500 in principal and original issue discount due them under the Debentures into 2,448.20 shares of Series AA Convertible Preferred Stock with a conversion price of \$2.50 per share. The Debenture Holders were also: (a) issued amended Debenture Warrants such that the exercise price will be \$3.50 per share; and (b) issued a new warrant with an exercise price of \$3.50 per share to purchase 2,448,200 shares of common stock (the number of shares of common stock issuable upon conversion of the Series AA Convertible Preferred Stock shares received as a result of the Debenture conversions).

On June 1, 2018, the Company entered into a Securities Purchase Agreement with accredited investors pursuant to which the Company sold an aggregate of 20 shares of Series AA Convertible Preferred Stock, each preferred share convertible into 1,000 shares of the Company's common stock, par value \$0.01 per share, for an aggregate Purchase Price of \$50,000. We issued to the shareholders a new warrant to purchase 20,000 shares of common stock with an exercise price of \$3.50 per share.

On June 11, 2018, the Company entered into additional Letter Agreements with 15 Debenture Holders whereby the Debenture Holders agreed to convert a total of \$742,134 in principal and original issue discount due them under the Debentures into 296.80 shares of Series AA Convertible Preferred Stock with a conversion price of \$2.50 per share. The Debenture Holders were also: (a) issued amended Debenture Warrants such that the exercise price will be \$3.50 per share; and (b) issued a new warrant with an exercise price of \$3.50 per share to purchase 296,800 shares of common stock (the number of shares of common stock issuable upon conversion of the Series AA Convertible Preferred Stock shares received as a result of the Debenture conversions).

During the quarter ended September 30, 2018, the Company entered into Securities Purchase Agreements with accredited investors pursuant to which the Company sold an aggregate of 460 shares of Series AA Convertible Preferred Stock, each preferred share convertible into 1,000 shares of the Company's common stock, par value \$0.01 per share, for an aggregate Purchase price of \$1,150,000. We issued to the investors warrants to purchase an aggregate 460,000 shares of common stock with an exercise price of \$3.50 per share.

The issuances of our convertible preferred stock and common stock purchase warrants are accounted for under the fair value and relative fair value method.

The warrant is first analyzed per its terms as to whether it has derivative features or not. If the warrant is determined to be a derivative, then it is measured at fair value using the Black Scholes Option Model and recorded as a liability on the balance sheet. The warrant is re-measured at its then current fair value at each subsequent reporting date (it is “marked-to-market”).

If the warrant is determined to not have derivative features, it is recorded into equity at its fair value using the Black Scholes option model, however, limited to a relative fair value based upon the percentage of its fair value to the total fair value including the fair value of the convertible preferred stock.

We analyzed these warrants and determined that they were not considered derivatives and therefore recorded the aggregate relative fair value of \$7,877,396 into equity relating to the 5,655,454 warrants and 57,000 broker warrants issued.

The convertible preferred stock is recorded at its fair value, limited to a relative fair value based upon the percentage of its fair value to the total fair value including the fair value of the warrant. Further, the convertible preferred stock is examined for any intrinsic beneficial conversion feature (“BCF”) of which the convertible price of the preferred stock is less than the closing stock price on date of issuance. If the relative fair value method is used to value the convertible preferred stock and there is an intrinsic BCF, a further analysis is undertaken of the BCF using an effective conversion price which assumes the conversion price is the relative fair value divided by the number of shares of common stock the convertible preferred stock is converted into by its terms. The adjusted BCF value of \$11,678,571 was accounted for as a deemed dividend within equity and was included in the earnings per share calculation.

Stock Options and Warrants

Our stockholders approved our amended 2005 Equity Incentive Plan (the “Plan”) pursuant to which an aggregate of 1,800,000 shares of our common stock were reserved for issuance upon exercise of stock options or other equity awards made under the Plan. Under the Plan, we may award stock options, shares of common stock, and other equity interests in the Company to employees, officers, directors, consultants, and advisors, and to any other persons the Board of Directors deems appropriate. The Plan has expired and on July 18, 2018, the outstanding options to acquire 32,605 shares were transferred as discussed below to one of the other plans.

At the Company's December 12, 2013 Special Meeting, the shareholders approved the 2013 Equity Incentive Plan (the "2013 Plan") pursuant to which 3,000,000 shares of our common stock were reserved for issuance upon exercise of stock options or other equity awards. Under the 2013 Plan, we may award stock options, shares of common stock, and other equity interests in the Company to employees, officers, directors, consultants, and advisors, and to any other persons the Board of Directors deems appropriate. As of September 30, 2018, options to acquire 138,056 shares were outstanding under the Plan with 2,861,944 shares available for future grant under the 2013 Plan.

On November 29, 2015 the Company's Board of Directors adopted the 2015 Nonqualified Stock Option Plan (the "2015 Plan") pursuant to which 5,000,000 shares of our common stock were reserved for issuance upon exercise of non-qualified stock options. Under the 2015 Plan, we may award non-qualified stock options in the Company to employees, officers, directors, consultants, and advisors, and to any other persons the Board of Directors deems appropriate. As of September 30, 2018, non-qualified options to acquire 203,734 shares were outstanding under the Plan.

All of the outstanding non-qualified options had an exercise price that was at or above the Company's common stock share price at time of issuance.

On July 18, 2018, the Board of Directors approved the immediate termination of 244,467 outstanding stock options held by current officers, employees and board members (32,605 stock options under the Plan, 81,925 stock options under the 2013 Plan, and 129,937 stock options under the 2015 Plan) and the issuance of new stock options to the same holders with an exercise price of \$3.40 per share equal to the closing market price on July 18, 2018 and an expiration date of July 18, 2028. The new stock options for board members will vest 1/12th per month for 12 months. The new stock options for officers and employees will vest 1/36th per month for 36 months. The Plan expired in 2015 so of the 32,605 terminated stock options, 16,641 stock options under the 2013 Plan and 15,964 stock options under the 2015 Plan were issued (in addition to the reissuance of 81,925 stock options under the 2013 Plan, and 129,937 stock options under the 2015 Plan). The Board of Directors also awarded 101,267 stock options to officers, employees and board members separately based on the annual compensation committee recommendation. Of the 101,267 stock options issued, 51,934 stock options were issued under the 2013 Plan and 49,333 stock options were issued under the 2015 Plan.

We evaluated this exchange and concluded that it was a modification under ASU 2017-09. Under ASU 2017-09, a cancelled equity award accompanied by the concurrent grant of (or offer to grant) a replacement award or other valuable consideration shall be accounted for as a modification of the terms of the cancelled award. Therefore, incremental compensation cost shall be measured as the excess of the fair value of the replacement award or other valuable consideration over the fair value of the cancelled award at the cancellation date in accordance with paragraph ASC 718-20-35-3. The total compensation cost measured at the date of a cancellation and replacement shall be the portion of the grant-date fair value of the original award for which the requisite service is expected to be rendered (or has already been rendered) at that date plus the incremental cost resulting from the cancellation and replacement. The compensation value created by the termination and issuance of new stock options, as determined under the Black Scholes method, was approximately \$267,000 and under ASU 2017-09 results in a non-cash expense in current and future periods not to exceed the vesting periods of the stock options. The Board of Directors also awarded 101,267 to officers, employees and board members separately based on the annual compensation committee recommendation.

The following tables summarize information concerning options and warrants outstanding and exercisable:

	Stock Options		Warrants		Total	
	Weighted Average Shares	Price per share	Weighted Average Shares	Price per share	Shares	Exercisable
Balance outstanding, 12/31/17	247,692	\$ 10.95	899,542	\$ 12.03	1,147,234	1,073,850
Granted	345,734					
	Parent	Combined Guarantor Subsidiaries	Combined Non- Guarantor Subsidiaries	Eliminations	Consolidated	

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(in millions)

Revenues	\$ 487.3	\$ 2,009.0	\$ 1,149.0	\$ (426.4)	\$ 3,218.9
Cost of revenues	491.1	1,666.8	896.7	(426.4)	2,628.2
Selling, engineering, and administrative expenses	71.9	97.2	39.0		208.1
	563.0	1,764.0	935.7	(426.4)	2,836.3
Operating profit (loss)	(75.7)	245.0	213.3		382.6
Other (income) expense	(271.0)	58.2	45.2	201.7	34.1
Income from continuing operations before income taxes	195.3	186.8	168.1	(201.7)	348.5
Provision (benefit) for income taxes:					
Current	(22.1)	15.6	64.0		57.5
Deferred	7.7	82.3	(14.5)		75.5
	(14.4)	97.9	49.5		133.0
Income from continuing operations	209.7	88.9	118.6	(201.7)	215.5
Gain on sale of discontinued operations, net of provision for income taxes of \$12.2	20.4				20.4
Loss from discontinued operations, net of benefit for income taxes of \$1.7			(5.8)		(5.8)
Net income	\$ 230.1	\$ 88.9	\$ 112.8	\$ (201.7)	\$ 230.1

Table of Contents**Balance Sheet
December 31, 2008**

	Parent	Combined Guarantor Subsidiaries	Combined Non- Guarantor Subsidiaries (in millions)	Eliminations	Consolidated
Assets:					
Cash and cash equivalents	\$ 139.7	\$ 2.1	\$ 20.0	\$	\$ 161.8
Receivables, net of allowance	0.4	90.0	160.9		251.3
Income tax receivable	98.7				98.7
Inventory	0.3	407.7	203.8		611.8
Property, plant, and equipment, net	20.7	957.7	2,012.2		2,990.6
Investments in subsidiaries/intercompany receivable (payable), net	2,399.5	217.5	497.2	(3,114.2)	
Goodwill and other assets	218.8	438.4	285.9	(141.5)	801.6
	\$ 2,878.1	\$ 2,113.4	\$ 3,180.0	\$ (3,255.7)	\$ 4,915.8
Liabilities:					
Accounts payable and accrued liabilities	\$ 269.0	\$ 184.0	\$ 246.4	\$	\$ 699.4
Debt	651.5	64.2	1,190.2		1,905.9
Deferred income	64.9	3.3	3.6		71.8
Deferred income taxes		456.8	26.6	(141.5)	341.9
Other liabilities	61.5	0.9	3.2		65.6
Total stockholders' equity	1,831.2	1,404.2	1,710.0	(3,114.2)	1,831.2
	\$ 2,878.1	\$ 2,113.4	\$ 3,180.0	\$ (3,255.7)	\$ 4,915.8

**Balance Sheet
December 31, 2007**

	Parent	Combined Guarantor Subsidiaries	Combined Non- Guarantor Subsidiaries (in millions)	Eliminations	Consolidated
Assets:					
Cash and cash equivalents	\$ 238.0	\$ 0.7	\$ 50.9	\$	\$ 289.6
Receivables, net of allowance	5.8	156.6	134.1		296.5
Inventory	5.3	412.1	169.3		586.7

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Property, plant, and equipment, net	22.5	807.1	1,240.2		2,069.8
Investments in subsidiaries/intercompany receivable (payable), net	2,271.3	(522.4)	314.2	(2,063.1)	
Goodwill and other assets	227.4	440.9	264.2	(131.9)	800.6
	\$ 2,770.3	\$ 1,295.0	\$ 2,172.9	\$ (2,195.0)	\$ 4,043.2
Liabilities:					
Accounts payable and accrued liabilities	\$ 307.4	\$ 174.2	\$ 202.7	\$	\$ 684.3
Debt	651.7	78.5	644.0		1,374.2
Deferred income	32.3	3.9	22.2		58.4
Deferred income taxes		274.0		(131.9)	142.1
Other liabilities	52.2	0.8	4.5		57.5
Total stockholders equity	1,726.7	763.6	1,299.5	(2,063.1)	1,726.7
	\$ 2,770.3	\$ 1,295.0	\$ 2,172.9	\$ (2,195.0)	\$ 4,043.2

Table of Contents**Statement of Cash Flows
For the Year Ended December 31, 2008**

	Parent	Combined Guarantor Subsidiaries	Combined Non- Guarantor Subsidiaries (in millions)	Eliminations	Consolidated
Operating activities:					
Net income	\$ 285.8	\$ 231.0	\$ 145.2	\$ (376.2)	\$ 285.8
Adjustments to reconcile net income to net cash provided (required) by continuing operating activities:					
Loss from discontinued operations			1.5		1.5
Depreciation and amortization	4.0	53.0	83.3		140.3
Stock-based compensation expense	18.7				18.7
Excess tax benefits from stock-based compensation	(0.9)				(0.9)
Provision (benefit) for deferred income taxes	2.7	189.2	59.4		251.3
(Gain) loss on disposition of property, plant, equipment, and other assets	(1.9)	(5.3)	(3.3)		(10.5)
Net transfers with subsidiaries	(171.6)	(321.9)	117.3	376.2	
Other	34.0	(12.1)	(48.4)		(26.5)
Changes in assets and liabilities, net of effects from acquisitions:					
(Increase) decrease in receivables	5.4	64.8	(26.8)		43.4
(Increase) decrease in inventories	5.0	3.7	(34.5)		(25.8)
(Increase) decrease in other assets	(102.6)	(9.3)	(26.1)		(138.0)
Increase (decrease) in accounts payable and accrued liabilities	(124.4)	9.4	(13.3)		(128.3)
Increase (decrease) increase in other liabilities	26.1	(6.3)	(12.9)		6.9
Net cash (required) provided by operating activities continuing operations	(19.7)	196.2	241.4		417.9
Net cash provided by operating activities discontinued operations			1.3		1.3
Net cash (required) provided by operating activities	(19.7)	196.2	242.7		419.2
Investing activities:					
Proceeds from sales of railcars from our leased fleet		940.3	58.9	(777.1)	222.1
	3.1	14.1	3.6		20.8

Proceeds from disposition of property, plant, equipment, and other assets						
Capital expenditures	lease subsidiary		(1,107.3)	(780.6)	777.1	(1,110.8)
Capital expenditures	other	(3.0)	(27.6)	(101.7)		(132.3)
Net cash required by investing activities continuing operations						
		0.1	(180.5)	(819.8)		(1,000.2)
Net cash required by investing activities						
		0.1	(180.5)	(819.8)		(1,000.2)
Financing activities:						
Issuance of common stock, net						
		3.1				3.1
Excess tax benefits from stock-based compensation						
		0.9				0.9
Payments to retire debt						
		(0.2)	(15.1)	(375.5)		(390.8)
Proceeds from issuance of debt						
			0.8	921.7		922.5
Stock repurchases						
		(58.3)				(58.3)
Dividends paid to common shareholders						
		(24.2)				(24.2)
Net cash (required) provided by financing activities						
		(78.7)	(14.3)	546.2		453.2
Net (decrease) increase in cash and cash equivalents						
		(98.3)	1.4	(30.9)		(127.8)
Cash and cash equivalents at beginning of period						
		238.0	0.7	50.9		289.6
Cash and cash equivalents at end of period						
		\$ 139.7	\$ 2.1	\$ 20.0	\$	\$ 161.8

Table of Contents**Statement of Cash Flows
For the Year Ended December 31, 2007**

	Parent	Combined Guarantor Subsidiaries	Combined Non- Guarantor Subsidiaries (in millions)	Eliminations	Consolidated
Operating activities:					
Net income	\$ 293.1	\$ 274.7	\$ 103.4	\$ (378.1)	\$ 293.1
Adjustments to reconcile net income to net cash provided (required) by continuing operating activities:					
Loss from discontinued operations			0.7		0.7
Depreciation and amortization	7.0	50.7	61.2		118.9
Stock-based compensation expense	18.6				18.6
Excess tax benefits from stock based compensation	(4.0)				(4.0)
Provision (benefit) for deferred income taxes	(21.7)	83.6	(2.6)		59.3
(Gain) loss on disposition of property, plant, equipment and other assets	(2.9)	(14.5)	0.4		(17.0)
Net transfers with subsidiaries	(584.9)	71.1	135.7	378.1	
Other	40.4	(69.8)	(16.3)		(45.7)
Changes in assets and liabilities, net of effects from acquisitions:					
(Increase) decrease in receivables	52.8	(41.4)	(57.1)		(45.7)
(Increase) decrease in inventories	62.9	(120.5)	6.7		(50.9)
(Increase) decrease in other assets	(6.8)	(37.1)	(9.3)		(53.2)
Increase (decrease) in accounts payable and accrued liabilities	123.4	(77.2)	41.0		87.2
Increase (decrease) in other liabilities	(12.5)	(6.9)	2.7		(16.7)
Net cash (required) provided by operating activities continuing operations	(34.6)	112.7	266.5		344.6
Net cash required by operating activities discontinued operations			(0.1)		(0.1)
Net cash (required) provided by operating activities	(34.6)	112.7	266.4		344.5
Investing activities:					
Proceeds from sales of railcars for our leased fleet		646.0	101.5	(388.2)	359.3
Proceeds from disposition of property, plant, equipment, and other assets	3.6	43.7	3.7		51.0
Capital expenditures lease subsidiary		(702.3)	(391.3)	388.2	(705.4)

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Capital expenditures other	(7.4)	(54.3)	(127.0)	(188.7)
Payments for purchase of acquisitions, net of cash acquired		(2.9)	(48.1)	(51.0)
Net cash required by investing activities continuing operations	(3.8)	(69.8)	(461.2)	(534.8)
Net cash required by investing activities	(3.8)	(69.8)	(461.2)	(534.8)
Financing activities:				
Issuance of common stock, net	12.2			12.2
Excess tax benefits from stock-based compensation	4.0			4.0
Payments to retire debt	(0.8)	(44.9)	(83.8)	(129.5)
Proceeds from issuance of debt	1.0	2.5	301.3	304.8
Stock repurchases	(2.9)			(2.9)
Dividends paid to common shareholders	(20.2)			(20.2)
Net cash (required) provided by financing activities	(6.7)	(42.4)	217.5	168.4
Net (decrease) increase in cash and cash equivalents	(45.1)	0.5	22.7	(21.9)
Cash and cash equivalents at beginning of period	283.1	0.2	28.2	311.5
Cash and cash equivalents at end of period	\$ 238.0	\$ 0.7	\$ 50.9	\$ 289.6

Table of Contents**Statement of Cash Flows
For the Year Ended December 31, 2006**

	Parent	Combined Guarantor Subsidiaries	Combined Non- Guarantor Subsidiaries (in millions)	Eliminations	Consolidated
Operating activities:					
Net income	\$ 230.1	\$ 88.9	\$ 112.8	\$ (201.7)	\$ 230.1
Adjustments to reconcile net income to net cash provided (required) by continuing operating activities:					
Earnings (loss) from discontinued operations	(20.4)		5.8		(14.6)
Depreciation and amortization	9.4	33.1	45.1		87.6
Stock-based compensation expense	14.0				14.0
Income tax benefit from employee stock options exercised	(7.6)				(7.6)
Provision (benefit) for deferred income taxes	7.7	82.3	(14.5)		75.5
Gain on disposition of property, plant, equipment and other assets	(1.7)	(11.3)	(0.5)		(13.5)
Net transfers with subsidiaries	(415.7)	220.8	(6.8)	201.7	
Other	(12.5)	(5.6)	(8.5)		(26.6)
Changes in assets and liabilities, net of effects from acquisitions:					
(Increase) decrease in receivables	(8.9)	(9.1)	(15.8)		(33.8)
(Increase) decrease in inventories	(9.8)	(57.5)	(56.7)		(124.0)
(Increase) decrease in other assets	(0.3)	(34.1)	(44.3)		(78.7)
Increase (decrease) in accounts payable and accrued liabilities	(50.1)	27.3	28.0		5.2
Increase (decrease) in other liabilities	10.8	(23.4)	12.4		(0.2)
Net cash (required) provided by operating activities continuing operations	(255.0)	311.4	57.0		113.4
Net cash provided by operating activities discontinued operations			17.4		17.4
Net cash (required) provided by operating activities	(255.0)	311.4	74.4		130.8
Investing activities:					
Proceeds from sales of railcars from our leased fleet		277.5	12.1	(200.8)	88.8
Proceeds from disposition of property, plant, equipment, and other assets	2.4	15.1	2.5		20.0

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Capital expenditures lease subsidiary		(540.1)	(204.3)	200.8	(543.6)
Capital expenditures other	(15.6)	(50.2)	(51.7)		(117.5)
Payments for purchase of acquisitions, net of cash acquired		(3.5)			(3.5)
Net cash required by investing activities continuing operations	(13.2)	(301.2)	(241.4)		(555.8)
Net cash provided by investing activities discontinued operations	82.8		0.1		82.9
Net cash provided (required) by investing activities	69.6	(301.2)	(241.3)		(472.9)
Financing activities:					
Issuance of common stock, net	18.1				18.1
Excess tax benefits from stock-based compensation	7.6				7.6
Payments to retire debt	(103.6)	(11.9)	(294.7)		(410.2)
Proceeds from issuance of debt	453.6	1.6	464.9		920.1
Dividends paid to common shareholders	(16.3)				(16.3)
Dividends paid to preferred shareholders	(1.7)				(1.7)
Net cash provided (required) by financing activities	357.7	(10.3)	170.2		517.6
Net increase (decrease) in cash and cash equivalents	172.3	(0.1)	3.3		175.5
Cash and cash equivalents at beginning of period	110.8	0.3	24.9		136.0
Cash and cash equivalents at end of period	\$ 283.1	\$ 0.2	\$ 28.2	\$	\$ 311.5

Table of Contents**Note 21. Selected Quarterly Financial Data (Unaudited)**

	Three Months Ended March 31, 2008	Three Months Ended June 30, 2008	Three Months Ended September 30, 2008	Three Months Ended December 31, 2008
	(in millions except per share data)			
Year ended December 31, 2008:				
Revenues	\$ 898.9	\$ 945.5	\$ 1,154.6	\$ 883.8
Operating profit	126.2	150.0	163.0	109.8
Income from continuing operations	65.6	85.6	91.5	44.6
Loss (income) from discontinued operations, net of provision (benefit) for income taxes of \$(0.1), \$, \$(0.1), and \$0.2	(0.3)		(1.4)	0.2
Net income	65.3	85.6	90.1	44.8
Net income per common share:				
Basic:				
Continuing operations	\$ 0.83	\$ 1.09	\$ 1.16	\$ 0.58
Discontinued operations	0.00	0.00	(0.02)	0.00
	\$ 0.83	\$ 1.09	\$ 1.14	\$ 0.58
Diluted:				
Continuing operations	\$ 0.81	\$ 1.06	\$ 1.14	\$ 0.58
Discontinued operations	0.00	0.00	(0.02)	0.00
	\$ 0.81	\$ 1.06	\$ 1.12	\$ 0.58

	Three Months Ended March 31, 2007	Three Months Ended June 30, 2007	Three Months Ended September 30, 2007	Three Months Ended December 31, 2007
	(in millions except per share data)			
Year ended December 31, 2007:				
Revenues	\$ 828.5	\$ 892.6	\$ 1,008.4	\$ 1,103.3
Operating profit	108.7	111.1	146.9	146.1
Income from continuing operations	59.1	69.0	87.2	78.5
Loss from discontinued operations, net of provision (benefit) for income taxes of \$, \$(0.1), \$(0.1), and \$		(0.3)	(0.2)	(0.2)
Net income	59.1	68.7	87.0	78.3
Net income per common share:				

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Basic:

Continuing operations	\$	0.76	\$	0.87	\$	1.10	\$	0.99
Discontinued operations		0.00		0.00		0.00		0.00

\$ 0.76 \$ 0.87 \$ 1.10 \$ 0.99

Diluted:

Continuing operations	\$	0.74	\$	0.85	\$	1.08	\$	0.97
Discontinued operations		0.00		0.00		0.00		0.00

\$ 0.74 \$ 0.85 \$ 1.08 \$ 0.97

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Item 9. *Changes In and Disagreements with Accountants on Accounting and Financial Disclosure.*

None.

Item 9A. *Controls and Procedures.*

Disclosure Controls and Procedures.

The Company maintains controls and procedures designed to ensure that it is able to collect the information it is required to disclose in the reports it files with the SEC, and to process, summarize, and disclose this information within the time periods specified in the rules of the SEC. The Company's Chief Executive and Chief Financial Officers are responsible for establishing and maintaining these procedures and, as required by the rules of the SEC, evaluating their effectiveness. Based on their evaluation of the Company's disclosure controls and procedures which took place as of the end of the period covered by this report, the Chief Executive and Chief Financial Officers believe that these procedures are effective to ensure that the Company is able to collect, process, and disclose the information it is required to disclose in the reports it files with the SEC within the required time periods.

Management's Report on Internal Control over Financial Reporting.

Management of the Company is responsible for establishing and maintaining effective internal control over financial reporting as defined in Rules 13a-15(f) under the Securities Exchange Act of 1934. The Company's internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Therefore, even those systems determined to be effective can provide only reasonable assurance, as opposed to absolute assurance, of achieving their internal control objectives.

Management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2008. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control - Integrated Framework*. Based on our assessment, we believe that, as of December 31, 2008, the Company's internal control over financial reporting is effective based on those criteria.

The effectiveness of internal control over financial reporting as of December 31, 2008, has been audited by Ernst & Young LLP, the independent registered public accounting firm who also audited the Company's consolidated financial statements. Ernst & Young LLP's attestation report on effectiveness of the Company's internal control over financial reporting is included herein.

Item 9B. *Other Information.*

None.

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PART III

Item 10. *Directors, Executive Officers and Corporate Governance.*

Information regarding the directors of the Company is incorporated by reference to the information set forth under the caption "Election of Directors" in the Company's Proxy Statement for the 2009 Annual Meeting of Stockholders (the "2009 Proxy Statement"). Information relating to the executive officers of the Company is set forth in Part I of this report under the caption "Executive Officers of the Company." Information relating to the Board of Directors determinations concerning whether at least one of the members of the Audit Committee is an "audit committee financial expert" as that term is defined under Item 407 (d)(5) of Regulation S-K is incorporated by reference to the information set forth under the caption "Corporate Governance" in the Company's 2009 Proxy Statement. Information regarding the Company's Audit Committee is incorporated by reference to the information set forth under the caption "Corporate Governance" in the Company's 2009 Proxy Statement. Information regarding compliance with Section 16(a) of the Securities and Exchange Act of 1934 is incorporated by reference to the information set forth under the caption "Additional Information - Section 16(a) Beneficial Ownership Reporting Compliance" in the Company's 2009 Proxy Statement.

The Company has adopted a Code of Business Conduct and Ethics that applies to all of its directors, officers, and employees. The Code of Business Conduct and Ethics is on the Company's website at www.trin.net under the caption "Investor Relations/ Governance." The Company intends to post any amendments or waivers for its Code of Business Conduct and Ethics to the Company's website at www.trin.net.

Item 11. *Executive Compensation.*

Information regarding compensation of executive officers and directors is incorporated by reference to the information set forth under the caption "Executive Compensation" in the Company's 2009 Proxy Statement. Information concerning compensation committee interlocks and insider participation is incorporated by reference to the information set forth under the caption "Corporate Governance - Compensation Committee Interlocks and Insider Participation" in the Company's 2009 Proxy Statement. Information about the compensation committee report is incorporated by reference to the information set forth under the caption "Executive Compensation - Human Resources Committee Report" in the Company's 2009 Proxy Statement.

Item 12. *Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.*

Information concerning security ownership of certain beneficial owners and management is incorporated herein by reference from the Company's 2009 Proxy Statement, under the caption "Security Ownership of Certain Beneficial Owners and Management."

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The following table sets forth information about Trinity common stock that may be issued under all of Trinity's existing equity compensation plans as of December 31, 2008.

Equity Compensation Plan Information

	(a)	(b)	(c)
Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights	Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Remaining Available for Future Issuance under Equity Compensation Plans (Excluding Securities Reflected in Column (a))
Equity compensation plans approved by security holders:			
Stock Options	1,310,593		
Restricted stock units	102,139		
	1,412,732	\$ 15.35(1)	1,823,085
Equity compensation plans not approved by security holders	(2)		
Total	1,412,732	\$ 15.35	1,823,085

(1) Includes 102,139 shares of common stock issuable upon the vesting and conversion of restricted stock units. The restricted stock units do not have an exercise price.

(2) Excludes information regarding the Trinity Deferred Plan for Director Fees. This plan permits the deferral of the payment of the annual retainer fee and board and committee meeting fees. At the election of the participant, the deferred fees may be converted into phantom stock units with a fair market value equal to the value of the fees deferred, and such phantom stock units are credited to the director's account (along with the amount of any dividends or stock distributions). At the time a participant ceases to be a director, cash will be distributed to the participant. At December 31, 2008, 46,535 phantom stock units were credited to the accounts of participants. Also excludes information regarding the Trinity Industries Supplemental Profit Sharing Plan (Supplemental Plan) for certain of its highly compensated employees. Information about the Supplemental Plan is incorporated herein by reference from the Company's 2009 Proxy Statement, under the caption Executive Compensation Post-Employment Benefits. At December 31, 2008, 48,343 stock units were credited to the accounts of participants under the Supplemental Plan.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

Information regarding certain relationships and related person transactions is incorporated by reference to the information set forth under the captions "Corporate Governance," "Compensation Committee Interlocks and Insider Participation," and "Transactions with Related Persons" in the Company's 2009 Proxy Statement. Information regarding the independence of directors is incorporated by reference to the information set forth under the captions "Corporate Governance" and "Independence of Directors" in the Company's 2009 Proxy Statement.

Item 14. *Principal Accountant Fees and Services.*

Information regarding principal accountant fees and services is incorporated by reference to the information set forth under the captions "Fees of Independent Registered Public Accounting Firm for Fiscal Years 2008 and 2007" in the Company's 2009 Proxy Statement.

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PART IV

Item 15. *Exhibits and Financial Statement Schedules.*

(a) (1) *Financial Statements.*

See Item 8.

(2) *Financial Statement Schedule.*

For the years ended December 31, 2008, 2007, and 2006.

II Allowance for Doubtful Accounts

(3) *Exhibits.*

See Index to Exhibits for a listing of Exhibits which are filed herewith or incorporated herein by reference to the location indicated.

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EXHIBIT 23

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Post-Effective Amendment No. 3 to the Registration Statement (Form S-8, No. 2-64813), Post-Effective Amendment No. 1 to the Registration Statement (Form S-8, No. 33-10937), Registration Statement (Form S-8, No. 33-35514), Registration Statement (Form S-8, No. 33-73026), Registration Statement (Form S-8, No. 333-77735), Registration Statement (Form S-8, No. 333-91067), Registration Statement (Form S-8, No. 333-85588), Registration Statement (Form S-8, No. 333-85590), Registration Statement (Form S-8, No. 333-114854), Registration Statement (Form S-8, No. 333-115376), and Registration Statement (Form S-3, No. 333-134596) of Trinity Industries, Inc. and Subsidiaries and in the related Prospectuses of our reports dated February 18, 2009 with respect to the consolidated financial statements and schedule of Trinity Industries, Inc. and Subsidiaries and the effectiveness of internal control over financial reporting of Trinity Industries, Inc. and Subsidiaries included in this Annual Report (Form 10-K) for the year ended December 31, 2008.

/s/ Ernst & Young LLP

Dallas, Texas
February 18, 2009

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders

Trinity Industries, Inc.

We have audited the consolidated financial statements of Trinity Industries, Inc. and Subsidiaries as of December 31, 2008, and for each of the three years in the period ended December 31, 2008 and have issued our report thereon dated February 18, 2009. Our audits also included the financial statement schedule of Trinity Industries, Inc. and Subsidiaries listed in Item 15. This schedule is the responsibility of the Company's management. Our responsibility is to express an opinion based on our audits.

In our opinion, the financial statement schedule referred to above, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

/s/ Ernst & Young LLP

Dallas, Texas

February 18, 2009

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SCHEDULE II

Trinity Industries, Inc. and Subsidiaries

Allowance For Doubtful Accounts
Years Ended December 31, 2008, 2007, and 2006
(in millions)

	Balance at Beginning of Period	Additions Charged to Costs and Expenses	Accounts Charged Off	Balance at End of Period
Year Ended December 31, 2008	\$ 4.0	\$ 3.3	\$ 0.5	\$ 6.8
Year Ended December 31, 2007	\$ 3.8	\$ 1.8	\$ 1.6	\$ 4.0
Year Ended December 31, 2006	\$ 4.9	\$ 0.6	\$ 1.7	\$ 3.8

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

TRINITY INDUSTRIES, INC.

Registrant

By /s/ William A. McWhirter II

William A. McWhirter II

Senior Vice President and Chief Financial Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Directors:

/s/ John L. Adams

John L. Adams

Director

Dated: February 19, 2009

/s/ Rhys J. Best

Rhys J. Best

Director

Dated: February 19, 2009

/s/ David W. Biegler

David W. Biegler

Director

Dated: February 19, 2009

/s/ Leldon E. Echols

Leldon E. Echols

Director

Dated: February 19, 2009

/s/ Ronald J. Gafford

Ronald J. Gafford

Director

Dated: February 19, 2009

/s/ Ronald W. Haddock

Ronald W. Haddock

Director

Dated: February 19, 2009

/s/ Jess T. Hay

Jess T. Hay

Director

Dated: February 19, 2009

/s/ Adrián Lajous

Adrián Lajous

Director

Dated: February 19, 2009

/s/ Diana S. Natalicio

Diana S. Natalicio

Director

Dated: February 19, 2009

Principal Executive Officer:

/s/ Timothy R. Wallace

Timothy R. Wallace

Chairman, President, Chief Executive Officer, and Director

Dated: February 19, 2009

Principal Financial Officer:

/s/ William A. McWhirter II

William A. McWhirter II

Senior Vice President and Chief Financial Officer

Dated: February 19, 2009

Principal Accounting Officer:

/s/ Charles Michel

Charles Michel

Vice President, Controller, and Chief Accounting Officer

Dated: February 19, 2009

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Trinity Industries, Inc.

Index to Exhibits

(Item 15(b))

NO.	DESCRIPTION
(3.1)	Certificate of Incorporation of Trinity Industries, Inc., as amended May 23, 2007 (incorporated by reference to Exhibit 3.1 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2007).
(3.2)	By-Laws of Trinity Industries, Inc., as amended December 13, 2007 (incorporated by reference to Exhibit 3.2 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(3.3)	Certificate of Incorporation of Transit Mix Concrete & Materials Company, as amended (incorporated by reference to Exhibit 3.3 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.4)	By-Laws of Transit Mix Concrete & Materials Company (incorporated by reference to Exhibit 3.4 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.5)	Certificate of Incorporation of Trinity Industries Leasing Company (incorporated by reference to Exhibit 3.5 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.6)	By-Laws of Trinity Industries Leasing Company (incorporated by reference to Exhibit 3.6 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.7)	Certificate of Incorporation of Trinity Marine Products, Inc., as amended (incorporated by reference to Exhibit 3.7 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.8)	By-Laws of Trinity Marine Products, Inc. (incorporated by reference to Exhibit 3.8 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.9)	Certificate of Formation of Trinity Rail Group, LLC (incorporated by reference to Exhibit 3.9 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.10)	Limited Liability Company Agreement of Trinity Rail Group, LLC (incorporated by reference to Exhibit 3.10 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.11)	Certificate of Incorporation of Trinity North American Freight Car, Inc. (formerly Thrall Trinity Freight Car, Inc. and Trinity North American Rail Car, Inc.) (incorporated by reference to Exhibit 3.11 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(3.12)	By-Laws of Trinity North American Freight Car, Inc. (formerly Thrall Trinity Freight Car, Inc. and Trinity North American Rail Car, Inc.) (incorporated by reference to Exhibit 3.12 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(3.13)	Certificate of Incorporation of Trinity Tank Car, Inc. (incorporated by reference to Exhibit 3.13 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.14)	By-Laws of Trinity Tank Car, Inc. (incorporated by reference to Exhibit 3.14 of Registration Statement No. 333-117526 filed July 21, 2004).
(3.15)	Certificate of Formation of Trinity Parts & Components, LLC (formerly Trinity Rail Components & Repair, Inc.) (incorporated by reference to Exhibit 3.15 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(3.16)	Limited Liability Company Agreement of Trinity Parts & Components, LLC. (incorporated by reference to Exhibit 3.16 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(4.01)	Indenture, dated June 7, 2006, between Trinity Industries, Inc. and Wells Fargo Bank, National Association, as trustee (including the Form of 37/8% Convertible Subordinated Note due 2036 as an exhibit thereto) (incorporated by reference to Exhibit 4.01 to our Form 8-K filed June 7, 2006).

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- (4.01.1) Officers Certificate of Trinity Industries, Inc. pursuant to the Indenture dated June 7, 2006, relating to the Company's 37/8% Convertible Subordinated Notes due 2036 (incorporated by reference to Exhibit 4.01.1 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006).
 - (4.1) Specimen Common Stock Certificate of Trinity Industries, Inc. (incorporated by reference to Exhibit 4.1 of Registration Statement No. 333-117526 filed July 21, 2004).
 - (4.2) Rights Agreement dated March 11, 1999 (incorporated by reference to our Form 8-A filed April 2, 1999).
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NO.	DESCRIPTION
(4.2.1)	Amendment No. 1 to the Rights Agreement dated as of August 12, 2001, amending the Rights Agreement dated as of March 11, 1999 by and between Trinity Industries, Inc. and the Bank of New York, as Rights Agent (incorporated by reference to Exhibit 2 to our Form 8-A/A filed August 22, 2001).
(4.2.2)	Amendment No. 2 to the Rights Agreement dated as of October 26, 2001, amending the Rights Agreement dated as of March 11, 1999 by and between Trinity Industries, Inc. and the Bank of New York, as Rights Agent, as amended by Amendment No. 1 to the Rights Agreement dated August 13, 2001 (incorporated by reference to Exhibit 4 to our Form 8-A/A filed October 31, 2001).
(4.2.3)	Amendment No. 3 to the Rights Agreement dated as of August 28, 2003, amending the Rights Agreement dated as of March 11, 1999 by and between Trinity Industries and the Bank of New York, as Rights Agent, as amended by Amendment No. 1 to the Rights Agreement dated August 13, 2001 and Amendment No. 2 to the Rights Agreement dated October 26, 2001 (incorporated by reference to Exhibit 4 to our Form 8-A/A filed May 19, 2005).
(4.2.4)	Amendment No. 4 to the Rights Agreement dated as of May 19, 2005, amending the Rights Agreement dated as of March 11, 1999 by and between Trinity Industries and the Bank of New York, as Rights Agent, as amended by Amendment No. 1 to the Rights Agreement dated August 13, 2001, Amendment No. 2 to the Rights Agreement dated October 26, 2001, and Amendment No. 3 to the Rights Agreement dated as of August 28, 2003 (incorporated by reference to Exhibit 5 to our Form 8-A/A filed May 19, 2005).
(4.2.5)	Agreement of Substitution and Amendment of Common Shares Rights Agreement dated March 6, 2006 (incorporated by reference to Exhibit 4.2.5 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006).
(4.2.6)	Certificate of Adjustment to the Rights Agreement dated March 11, 1999 (incorporated by reference to Exhibit 4.2.6 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006).
(4.4)	Pass Through Trust Agreement dated as of February 15, 2002 among Trinity Industries Leasing Company, Trinity Industries, Inc. and Wilmington Trust Company, as Trustee (incorporated by reference to Exhibit 4.4 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(4.4.1)	Trust Indenture and Security Agreement dated as of February 15, 2002 among Trinity Industries Leasing Company, Trinity Industries, Inc. and The Bank of New York, as Trustee (incorporated by reference to Exhibit 4.4.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(4.4.2)	Trust Indenture and Security Agreement dated as of February 15, 2002 among Trinity Industries Leasing Company, Trinity Industries, Inc. and The Bank of New York, as Trustee (incorporated by reference to Exhibit 4.4.2 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(4.4.3)	Trust Indenture and Security Agreement dated as of February 15, 2002 among Trinity Industries Leasing Company, Trinity Industries, Inc. and The Bank of New York, as Trustee (incorporated by reference to Exhibit 4.4.3 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(4.6)	Indenture dated as of March 10, 2004 by and between Trinity Industries, Inc., certain subsidiary guarantors party thereto and Wells Fargo Bank, National Association, as Trustee (incorporated by reference to Exhibit 4.6 of Registration Statement No. 333-117526 filed July 21, 2004).
(4.7)	Form of 61/2% Senior Note due 2014 of Trinity Industries, Inc. (incorporated by reference to Exhibit 4.7 of Registration Statement No. 333-117526 filed July 21, 2004).

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- (10.1.1) Form of Amended and Restated Executive Severance Agreement dated September 9, 2008 entered into between Trinity Industries, Inc. and the Chief Executive Officer, and each of the three Senior Vice Presidents (incorporated by reference to Exhibit 10.1.1 to our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008).*
 - (10.1.2) Form of Amended and Restated Executive Severance Agreement dated September 9, 2008, entered into between Trinity Industries, Inc. and certain executive officers and certain other subsidiary and divisional officers of Trinity Industries, Inc. (filed herewith).*
 - (10.2) Trinity Industries, Inc. Directors Retirement Plan, as amended September 10, 1998 (incorporated by reference to Exhibit 10.2 of Registration Statement No. 333-117526 filed July 21, 2004).*
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NO.	DESCRIPTION
(10.2.1)	Amendment No. 2 to the Trinity Industries, Inc. Directors Retirement Plan (incorporated by reference to Exhibit 10.2.1 to our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2005).*
(10.2.2)	Amendment No. 3 to the Trinity Industries, Inc. Directors Retirement Plan (incorporated by reference to Exhibit 10.2.2 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.3)	1993 Stock Option and Incentive Plan (incorporated by reference to Exhibit 4.1 of Registration Statement No. 33-73026 filed December 15, 1993).*
(10.3.1)	Amendment No. 1 to the 1993 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.3.1 to our Annual Report on Form 10-K for the annual period December 31, 2005).*
(10.3.2)	Amendment No. 2 to the 1993 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.3.2 to our Annual Report on Form 10-K for the annual period December 31, 2005).*
(10.3.3)	Amendment No. 3 to the 1993 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.3.3 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.3.4)	Amendment No. 4 to the 1993 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.3.4 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.3.5)	Amendment No. 5 to the 1993 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.3.5 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.5)	Supplemental Profit Sharing Plan for Employees of Trinity Industries, Inc. and Certain Affiliates as restated effective January 1, 2005 (incorporated by reference to Exhibit 10.5 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).*
(10.6)	Trinity Industries, Inc. Supplemental Profit Sharing and Deferred Director Fee Trust dated March 31, 1999 (incorporated by reference to Exhibit 10.7 of Registration Statement No. 333-117526 filed July 21, 2004).*
(10.6.1)	Amendment No. 1 to the Trinity Industries, Inc. Supplemental Profit Sharing and Deferred Director Fee Trust dated December 27, 2000 (incorporated by reference to Exhibit 10.7.1 of Registration Statement No. 333-117526 filed July 21, 2004).*
(10.7)	Supplemental Retirement Plan as Amended and Restated effective January 1, 2009 (incorporated by reference to Exhibit 10.7 to our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008).*
(10.7.1)	Amendment No. 1 to the Supplemental Retirement Plan as Amended and Restated effective January 1, 2009 (incorporated by reference to Exhibit 10.7.1 to our Form 8-K filed February 17, 2009).*
(10.8)	Trinity Industries, Inc. Deferred Plan for Director Fees, as amended (incorporated by reference to Exhibit 10.9 of Registration Statement No. 333-117526 filed July 21, 2004).*
(10.8.1)	Amendment to Trinity Industries, Inc. Deferred Plan for Director Fees dated December 7, 2005 (incorporated by reference to Exhibit 10.8.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.8.2)	Trinity Industries, Inc. 2005 Deferred Plan for Director Fees (incorporated by reference to Exhibit 10.8.2 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.9)	Deferred Compensation Trust of Trinity Industries, Inc. and Certain Affiliates effective January 1, 2002 (incorporated by reference to Exhibit 10.10 of Registration Statement No. 333-117526 filed

- July 21, 2004).*
- (10.10) Trinity Industries, Inc. 1998 Stock Option and Incentive Plan (incorporated by reference to Exhibit 4.2 of Registration Statement No. 333-77735 filed May 4, 1999).*
 - (10.10.1) Amendment No. 1 to the Trinity Industries, Inc. 1998 Stock Option Plan and Incentive Plan (incorporated by reference to Exhibit 10.12.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2001).*
 - (10.10.2) Amendment No. 2 to the Trinity Industries, Inc. 1998 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.12.2 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2001).*
 - (10.10.3) Amendment No. 3 to the Trinity Industries, Inc. 1998 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.10.3 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
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NO.	DESCRIPTION
(10.10.4)	Amendment No. 4 to the Trinity Industries, Inc. 1998 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.10.4 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.11)	Trinity Industries, Inc. 2004 Stock Option and Incentive Plan (incorporated by reference to Exhibit 99.1 to the Form S-8 Registration Statement No. 333-115376 filed by Trinity Industries, Inc. on May 11, 2004).*
(10.11.1)	Form of Notice of Grant of Stock Options and Non-Qualified Option Agreement with Non-Qualified Stock Option Terms and Conditions as of September 8, 2004 (incorporated by reference to Exhibit 10.11.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2004).*
(10.11.1.1)	Non-Qualified Stock Option Terms and Conditions as of December 6, 2005 (incorporated by reference to Exhibit 10.11.1.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.11.1.2)	Form of Notice of Grant of Stock Options and Non-Qualified Option Agreement with Non-Qualified Stock Option Terms and Conditions as of December 9, 2008 (filed herewith).*
(10.11.2)	Form of Notice of Grant of Stock Options and Incentive Stock Option Agreement with Incentive Stock Option Terms and Conditions as of September 8, 2004 (incorporated by reference to Exhibit 10.11.2 to our Annual Report on Form 10-K for the annual period ended December 31, 2004).*
(10.11.2.1)	Incentive Stock Option Terms and Conditions as of December 6, 2005 (incorporated by reference to Exhibit 10.11.2.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2005).*
(10.11.2.2)	Form of Notice of Grant of Stock Options and Incentive Stock Option Agreement with Incentive Stock Option Terms and Conditions as of December 9, 2008 (filed herewith).*
(10.11.3)	Form of Restricted Stock Grant Agreement for grants issued prior to 2008 (incorporated by reference to Exhibit 10.11.3 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).*
(10.11.3.1)	Form of Restricted Stock Grant Agreement for grants issued commencing 2008 (incorporated by reference to Exhibit 10.11.3 to our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008).*
(10.11.4)	Form of Non-Qualified Stock Option Agreement for Non-Employee Directors (incorporated by reference to Exhibit 10.11.4 to our Annual Report on Form 10-K for the annual period ended December 31, 2004).*
(10.11.5)	Form of Restricted Stock Unit Agreement for Non-Employee Directors for grants issued prior to 2008 (incorporated by reference to Exhibit 10.11.5 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).*
(10.11.5.1)	Form of Restricted Stock Unit Agreement for Non-Employee Directors for grants issued commencing 2008 (incorporated by reference to Exhibit 10.11.5 to our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008).*
(10.11.6)	Amendment No. 2 to the Trinity Industries, Inc. 2004 Stock Option and Incentive Plan (incorporated by reference to Exhibit 10.11.6 to our Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2008).*
(10.12)	Supplemental Retirement and Director Retirement Trust of Trinity Industries, Inc. (incorporated by reference to Exhibit 10.4 to our Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2004).*
(10.13)	

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Form of 2008 Deferred Compensation Plan and Agreement as amended and restated entered into between Trinity Industries, Inc. and certain officers of Trinity Industries, Inc. or its subsidiaries (incorporated by reference to Exhibit 10.13 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).*

(10.14) Trinity Industries, Inc. Short-Term Management Incentive Plan (incorporated by reference to Exhibit 10.14 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).*

(10.15) Equipment Lease Agreement (TRL 1 2001-1A) dated as of May 17, 2001 between TRLI-1A Railcar Statutory Trust, lesser, and Trinity Rail Leasing I L.P., lessee (incorporated by reference to Exhibit 10.15 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).

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NO.	DESCRIPTION
(10.15.1)	Participation Agreement (TRL 1 2001-1A) dated as of May 17, 2001 among Trinity Rail Leasing I L.P., lessee, et. al. (incorporated by reference to Exhibit 10.15.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.15.2)	Equipment Lease Agreement (TRL 1 2001-1B) dated as of July 12, 2001 between TRL 1 2001-1B Railcar Statutory Trust, lessor, and Trinity Rail Leasing I L.P., lessee (incorporated by reference to Exhibit 10.15.2 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.15.3)	Participation Agreement (TRL 1 2001-1B) dated as of May 17, 2001 among Trinity Rail Leasing I L.P., lessee, et. al. (incorporated by reference to Exhibit 10.15.3 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.15.4)	Equipment Lease Agreement (TRL 1 2001-1C) dated as of December 28, 2001 between TRL 1 2001-1C Railcar Statutory Trust, lessor, and Trinity Rail Leasing I L.P., lessee (incorporated by reference to Exhibit 10.15.4 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.15.5)	Participation Agreement (TRL 1 2001-1C) dated as of December 28, 2001 among Trinity Rail Leasing I L.P., lessee, et. al. (incorporated by reference to Exhibit 10.15.5 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.16)	Equipment Lease Agreement (TRL III 2003-1A) dated as of November 12, 2003 between TRL III-1A Railcar Statutory Trust, lessor, and Trinity Rail Leasing III L.P., lessee (incorporated by reference to Exhibit 10.16 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.16.1)	Participation Agreement (TRL III 2003-1A) dated as of November 12, 2003 between TRL III-1A among Trinity Rail Leasing III L.P., lessee, et. al. (incorporated by reference to Exhibit 10.16.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.16.2)	Equipment Lease Agreement (TRL III 2003-1B) dated as of November 12, 2003 between TRL III-1B Railcar Statutory Trust, lessor, and Trinity Rail Leasing III L.P., lessee, (incorporated by reference to Exhibit 10.16.2 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.16.3)	Participation Agreement (TRL III 2003-1B) dated as of November 12, 2003 between TRL III-1B among Trinity Rail Leasing III L.P., lessee, et. al. (incorporated by reference to Exhibit 10.16.3 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.16.4)	Equipment Lease Agreement (TRL III 2003-1C) dated as of November 12, 2003 between TRL III-1C Railcar Statutory Trust, lessor, and Trinity Rail Leasing III L.P., lessee (incorporated by reference to Exhibit 10.16.4 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.16.5)	Participation Agreement (TRL III 2003-1C) dated as of November 12, 2003 between TRL III-1C among Trinity Rail Leasing III L.P., lessee, et. al. (incorporated by reference to Exhibit 10.16.5 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.17)	Equipment Lease Agreement (TRL IV 2004-1A) between TRL IV 2004-1A Statutory Trust, lessor, and Trinity Rail Leasing IV L.P., lessee (incorporated by reference to Exhibit 10.17 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.17.1)	Participation Agreement (TRL IV 2004-1A) among Trinity Rail Leasing IV, L.P., lessee, et. al (incorporated by reference to Exhibit 10.17.1 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).
(10.18)	Amended and Restated Credit Agreement dated as of March 10, 2004 among Trinity Industries, Inc, as Borrower, JP Morgan Chase Bank, individually as a Lender and Issuing Bank and as

Administrative Agent, and Dresdner Bank AG, New York and Grand Cayman Branches and The Royal Bank of Scotland plc., each individually as a Lender and collectively as Syndication Agents, and certain other Lenders party thereto from time to time (incorporated by reference to Exhibit 10.18 of Registration Statement No. 333-117526 filed July 21, 2004).

- (10.18.1) Second Amended and Restated Credit Agreement dated as of April 20, 2005 among Trinity Industries, Inc, as Borrower, JP Morgan Chase Bank, N.A., individually and as Issuing Bank and Administrative Agent, The Royal Bank of Scotland plc, Wachovia Bank, N.A., and Bank of America, N.A., each individually and as Syndication Agents, Dresdner Bank AG, Individually and as Documentation Agent, and certain other Lenders party thereto from time to time (incorporated by reference to Exhibit 10.1 of our quarterly report on Form 10-Q for the period ended June 30, 2005).
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NO.	DESCRIPTION
(10.18.2)	First Amendment to the Second Amended and Restated Credit Agreement dated June 9, 2006, amending the Second Amended and Restated Credit Agreement dated April 20, 2005 (incorporated by reference to Exhibit 10.18.2 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006).
(10.18.3)	Second Amendment to the Second Amended and Restated Credit Agreement dated June 21, 2006, amending the Second Amended and Restated Credit Agreement dated April 20, 2005 (incorporated by reference to Exhibit 10.18.3 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006).
(10.18.4)	Third Amendment to the Second Amended and Restated Credit Agreement dated June 22, 2007, amending the Second Amended and Restated Credit Agreement dated April 20, 2005 (incorporated by reference to Exhibit 10.18.4 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2007).
(10.18.5)	Fourth Amendment to the Second Amended and Restated Credit Agreement dated October 19, 2007, amending the Second Amended and Restated Credit Agreement dated April 20, 2005 (incorporated by reference to Exhibit 10.18.5 to our Form 8-K filed on October 19, 2007).
(10.18.6)	Fifth Amendment to the Second Amended and Restated Credit Agreement dated February 9, 2009, amending the Second Amended and Restated Credit Agreement dated April 20, 2005 (filed herewith).
(10.19)	Amended and Restated Warehouse Loan Agreement, dated as of August 7, 2007, amending and restating the Warehouse Loan Agreement dated June 27, 2002 among Trinity Industries Leasing Company, Trinity Rail Leasing Trust II, the Borrower, Credit Suisse, New York Branch, as Agent, Wilmington Trust Company, as Collateral Agent and Depository, and the Lenders party thereto from time to time (incorporated by reference to Exhibit 10.19.13 to our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2007).
(10.19.1)	Amendment No. 1 to the Amended and Restated Warehouse Loan Agreement, dated February 13, 2008, amending the Amended and Restated Warehouse Loan Agreement dated August 7, 2007. (incorporated by reference to Exhibit 10.19.1 to our Form 8-K filed on February 14, 2008).
(10.20)	Term Loan Agreement dated as of May 9, 2008 among Trinity Rail Leasing VI LLC, the Committed Lenders and the Conduit Lenders From Time to Time Party Hereto, DVB Bank AG, as Agent, and Wilmington Trust Company; as Collateral and Depository (incorporated by reference to Exhibit 10.20 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2008).
(10.20.1)	Purchase and Sale Agreement (TILC) dated as of May 9, 2008 among Trinity Industries Leasing Company, as Seller and Trinity Rail Leasing VI LLC, as Buyer (incorporated by reference to Exhibit 10.20.1 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2008).
(10.20.2)	Purchase and Sale Agreement (TRLT-II) dated as of May 9, 2008 among Trinity Rail Leasing Trust II, as Seller, Trinity Rail Leasing VI LLC, as Buyer and Trinity Industries Leasing Company (incorporated by reference to Exhibit 10.20.2 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2008).
(10.23)	Retirement Transition Agreement between the Company and Jim S. Ivy (incorporated by reference to Exhibit 10.23 to our Annual Report on Form 10-K for the annual period ended December 31, 2004).*
(10.24)	Retirement Transition Agreement between the Company and John L. Adams (incorporated by reference to Exhibit 10.24 to our Annual Report on Form 10-K for the annual period ended December 31, 2004).*
(10.25)	

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Perquisite Plan beginning January 1, 2004 in which the Company's Executive Officers participate (incorporated by reference to Exhibit 10.25 to our Annual Report on Form 10-K for the annual period ended December 31, 2004).*

- (10.26) Purchase and Contribution Agreement, dated May 18, 2006, among Trinity Industries Leasing Company, Trinity Leasing Trust II, and Trinity Rail Leasing V L.P. (incorporated by reference to Exhibit 10.26 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006).
 - (10.26.1) Master Indenture dated May 18, 2006, between Trinity Rail Leasing V L.P. and Wilmington Trust Company, as indenture trustee (incorporated by reference to Exhibit 10.26.1 to our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006).
 - (10.27) Board Compensation Summary Sheet (incorporated by reference to Exhibit 10.27 to our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008).*
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NO.	DESCRIPTION
(10.28)	Retirement Transition Agreement between Trinity North American Freight Car, Inc. and Martin Graham (incorporated by reference to Exhibit 10.28 to our Annual Report on Form 10-K for the annual period ended December 31, 2007).*
(12)	Computation of Ratio of Earnings to Fixed Charges (filed herewith).
(21)	Listing of subsidiaries of Trinity Industries, Inc. (filed herewith).
(23)	Consent of Ernst & Young LLP (contained on page 79 of this document and filed herewith).
(31.1)	Rule 13a-15(e) and 15d-15(e) Certification of the Chief Executive Officer (filed herewith).
(31.2)	Rule 13a-15(e) and 15d-15(e) Certification of the Chief Financial Officer (filed herewith).
(32.1)	Certification pursuant to 18U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).
(32.2)	Certification pursuant to 18U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).

* Management contracts and compensatory plan arrangements.